

**Date:** June 16, 2016

**To:** UVU Board of Trustees

**From:** Linda Makin, Vice President, Planning, Budget, and Human Resources  
Cara O'Sullivan, Policy Officer

**Re:** Policies for June 16, 2016, Board of Trustees Meeting

The following policies are presented to the Board of Trustees for approval:

### **Policies Updated Related Role of Office of General Counsel**

#### **Policy 101 *Policy Governing Policies* (Regular, Limited Scope)**

Sponsor: Linda Makin

Steward: Karen Clemes

#### **Policy 109 *Contacting the Attorney General's Office* (Regular, Limited Scope)**

Sponsor: Linda Makin

Steward: Karen Clemes

**Summary:** The limited scope changes to these policies 1) document the role of UVU's new Office of General Counsel in policy matters and 2) update the process by which contact is made to the Attorney General's office.

### **Policies Relating to Sexual Misconduct and Clery Compliance**

#### **Policy 162 *Sexual Misconduct* (Regular)**

Sponsor: Linda Makin/Michele Taylor

Steward: Alexis Palmer, Melissa Frost, Karen Clemes

**Summary:** In addition to affirming UVU's commitment to a respectful and safe environment, this revision outlines investigations, sanctions, and remedies including due process rights and provides information regarding the rights of complainants and respondents.

#### **Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* (Regular, Deletion)**

Sponsor: Linda Makin

Steward: Mark Wiesenberg

**Summary:** This policy has been incorporated into Policy 162 and other policies; therefore, it is being deleted from the Policy Manual.

#### **Policy 407 *Clery Act: Campus Safety and Security* (Regular)**

Sponsor: Val Peterson

Steward: John Brewer

**Summary:** This revision incorporates changes to ensure compliance with the Clery Act and reflects alignment with Policy 162.

## **Policies Relating to Discrimination, Harassment, and Affirmative Action**

### ***Policy 165 Discrimination, Harassment, and Affirmative Action (Temporary Emergency)***

Sponsor: Linda Makin

Steward: Karen Clemes, Melissa Frost

**Summary:** In addition to affirming UVU's commitment to a respectful and safe environment, this revision identifies prohibited conduct, outlines investigations and disciplinary proceedings including due process rights, and provides information regarding the rights of complainants and respondents. The current Policy 165 was a temporary emergency policy approved last June to incorporate changes in protected classes; the current policy will expire this month.

### ***Policy 156 Grievance (Temporary Emergency, Deletion)***

Sponsor: Linda Makin

Steward: Karen Clemes

**Summary:** This policy's content has been folded into Policy 165 and will therefore be deleted.

## **Other Policies**

### ***Policy 403 Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards (Regular, Limited Scope)***

Sponsor: Val Peterson

Stewards: Frank Young

**Summary:** This policy has been updated to include hoverboards.

### ***Policy 503 Add/Drop/Withdrawals (Regular, Limited Scope)***

Sponsor: Michelle Taylor

Steward: Liz Childs

**Summary:** This limited scope revision clarifies under what circumstances the W (Withdrawal) grade is assigned.



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## Policies and Procedures

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Proposed Policy Number and Title: 101 Policy Governing Policies (REGULAR)		
Existing Policy Number and Title: 101 Policy Governing Policies		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision-LIMITED SCOPE	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		

<b>Draft Number and Date:</b> <u>Regular, Limited Scope, Stage 4 Draft, 05/24/2016</u>		
<b>President's Council Sponsor:</b> <u>Linda Makin</u>		<b>Ext.</b> _____
<b>Policy Steward:</b> <u>Karen Clemes</u>		<b>Ext.</b> _____

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>02/25/2016</u></p> <p><b>University Entities Review</b> Entrance Date: <u>02/25/2016</u> Close Feedback: <u>04/25/2016</u></p> <p><b>University Community Review</b> Entrance Date: <u>04/28/2016</u> Open Feedback: <u>04/28/2016</u> Close Feedback: <u>05/24/2016</u></p> <p><b>Board of Trustees Review</b> Entrance Date: <u>05/26/2016</u> Approval Date: <u>MM/DD/YYYY</u></p>	<p style="text-align: center;"><b>POST APPROVAL PROCESS</b></p> <p>Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <hr/> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b></p> <p><b>Name:</b> _____</p> <p><b>Date posted and verified:</b> <u>MM/DD/YYYY</u></p>



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<b>POLICY TITLE</b>	Policy Governing Policies	<b>Policy Number</b>	101
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	
<b>Subsection</b>	Governance and Organization	<b>Effective Date</b>	
<b>Responsible Office</b>	Policy Office		

### 1.0 PURPOSE

**1.1** In an effort to promote transparency, collaboration, efficiency, and institutional integrity, Utah Valley University (UVU) develops, approves, disseminates, implements, and maintains university policies.

**1.2** This policy sets forth a policy framework for Utah Valley University; establishes approval processes for policy proposals that create, revise, suspend, and delete university policies; and describes the responsibilities of the individuals and entities involved in the university policy approval processes.

### 2.0 REFERENCES

**2.1** Utah Code Ann. Sections 53B-2-106(2)(b) and (d)

**2.2** Utah Code Ann. Sections 76-8-701 through 76-8-718

**2.3** Utah State Board of Regents' Policy R220, Delegation of Responsibilities to the President and Board of Trustees

### 3.0 DEFINITIONS

**3.1 Approval date:** The approval date is the date a policy proposal is approved by the UVU Board of Trustees.

**3.2 Effective date:** The effective date is the date a policy proposal goes into effect and shall be on or after the approval date.

**3.3 Expedited policy approval process:** The expedited policy approval process is the approval process for non-substantive revisions of existing policies. The approval of non-substantive revisions via the expedited policy approval process does not constitute the enactment of a new or revised policy and does not change the approval or effective date of such policies.

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**3.4 Non-substantive revisions:** Non-substantive revisions are changes to an existing policy or policy proposal that correct typographical and grammatical errors, change policy format, and/or update university or reference information.

**3.5 Policy drafting committee:** A policy drafting committee is organized to assist the policy steward in the research and development of policy proposals. A policy drafting committee shall be comprised of representatives of the university entities likely to be affected by the policy proposal.

**3.6 Policy manual:** The policy manual is the central repository for all university policies. The UVU policy manual is publically available via electronic media maintained by the Policy Office.

**3.7 Policy proposal:** A policy proposal is a compilation of written documents for the creation, revision, suspension, or deletion of a university policy in one of the policy approval processes. A policy proposal may include drafts of new and revised policies, a statement regarding deletions of existing policies, and supporting documents.

**3.8 Policy recommendation:** A policy recommendation is a suggestion for a change to a university policy that occurs prior to stage one of a policy approval process. A policy recommendation becomes a policy proposal when it is advanced into one of the policy approval processes by the President's Council.

**3.9 Policy sponsor:** A policy sponsor is an individual who is responsible for reviewing and overseeing university policies for his or her area(s) of responsibility and for appointing policy stewards. These individuals, in conjunction with the Policy Office, oversee the development and advancement of policy proposals through the policy approval processes. Only designated members of the President's Council may serve as policy sponsors, specifically the university president, the vice presidents, and the presidents of the Faculty Senate, Professional Association of Campus Employees (PACE), and Utah Valley University Student Association (UVUSA).

**3.10 Policy steward:** A policy steward is an individual who, under the direction of a policy sponsor and in conjunction with the Policy Office, facilitates the development and advancement of a policy proposal through the university policy approval processes.

**3.11 President's Council:** The President's Council is a body convened by the university president. One of its responsibilities is to play a central role in the policy governance of the institution. For the purpose of policy governance, the university president, the vice presidents, and the presidents of the Faculty Senate, Professional Association of Campus Employees (PACE), and Utah Valley University Student Association (UVUSA), may serve as policy sponsors, and may appoint policy stewards.



**3.12 Regular policy approval process:** The regular policy approval process is the approval process for most new policies, substantive revisions of existing policies, and deletions of existing policies. Non-substantive revisions may also be processed through the regular policy approval process.

**3.13 Substantive revision:** Substantive revisions are changes that alter the intent, scope, meaning, or application of a university policy or policy proposal.

**3.14 Temporary emergency policy:** A temporary emergency policy is a policy approved via the temporary emergency policy approval process. Policy proposals approved through this approval process remain in effect for a specified period not to exceed one year and shall not be renewed.

**3.15 Temporary emergency policy approval process:** The temporary emergency policy approval process is the approval process for temporary emergency new policies, substantive revisions of existing policies, and suspensions of existing policies. This approval process is reserved for policy proposals that the university president deems to be crucial and that must be processed in a shorter time period than is possible through the regular approval process.

**3.16 University community:** The university community shall be defined to consist of all UVU employees, students, and other stakeholders who receive regular notice of policy proposals.

**3.17 University entities:** University entities shall be defined as the Dean's Council, Faculty Senate, Professional Association of Campus Employees (PACE), and Utah Valley University Student Association (UVUSA), all of which shall be given the opportunity to review policy proposals in the regular approval process.

**3.18 University policy:** University policies are maintained by the Policy Office in the policy manual. University policies often prescribe standards, requirements, restrictions, rights, or responsibilities and support the mission, values, and operation of the university. In this document, the terms *policy* and *policies* refer to university policies. Policies may not exist except at the university level. Divisions, colleges, schools, departments, programs, offices, etc. may have guidelines, practices, and standard operating procedures.

## 4.0 POLICY

### 4.1 Policy Authorization, Hierarchy of Policies, and Policy Interpretation

**4.1.1** Utah Code Sections 76-8-701 through 76-8-718 give the president power to regulate, conduct, and enforce law and order on property owned or controlled by the governing board (Board of Trustees). Utah Code Section 53B-2-106 provides the president with delegated powers and authority in order to assure the effective and efficient administration and operation of the



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University, including the ability to enact rules for administration and operation of the University. UVU Policy 101 and the provisions herein do not limit this power or how it is exercised.

**4.1.2** The Board of Regents has delegated authority to the university president to establish university policies, subject to the approval of the Board of Trustees (Board of Regents' Policy R220, Section 4.4). The Board of Trustees shall consult and advise the president generally and (a) approve or (b) disapprove policy proposals.

**4.1.3** The Board of Trustees has delegated to the president the authority to enact non-substantive revisions to existing policy if done through the expedited policy approval process. Non-substantive changes shall be reported by the president to the Board of Trustees at their next regular meeting. Non-substantive changes to existing policies do not constitute the enactment of a new or revised policy and do not change the approval or effective date of such policies.

**4.1.4** The president oversees the policy approval processes at UVU and empowers the President's Council and its policy sponsors to play a central role in policy governance.

**4.1.5** University policies are the official policies of the University. Unless expressly stated to the contrary, they are binding on university employees, students, and persons visiting or using the facilities or resources of the University. University policies exist within the following hierarchy of authority listed in the order below:

**4.1.5.1** Federal and State Statutes, Regulations, and Court Rulings

**4.1.5.2** Board of Regents policies

**4.1.5.3** University policies

**4.1.5.4** Division, college, and school guidelines, practices, and standard operating procedures

**4.1.5.5** Department, program, and office guidelines, practices, and standard operating procedures

**4.1.6** In the event of a conflict between documents at different levels in the hierarchy of authority, the higher-level authority governs and the subordinate, lower-level document shall be read consistently with the higher authority and shall be revised to that effect. Moreover, guidelines, practices, standard operating procedures, forms, checklists, protocols, criteria, deadlines, or any other means of implementing or complying with a university policy shall be consistent with the university policy.

**4.1.7** In the event of a conflict between university policies, the President's Council shall determine which policy or policies shall be revised or deleted through a policy approval process to resolve the conflict. In the absence of a determination of the President's Council, the most recently approved policy governs.

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**4.1.8** In the event of a disagreement among policy sponsors (see 3.9) on interpretation, implementation, and/or compliance with a specific policy, the president, in consultation with the President's Council, makes the final decision.

**4.1.9** Alleged violations, misinterpretations, or misapplications of university policies may be addressed in accordance with university policies and federal and Utah state law.

**4.1.10** Policies shall be enforced prospectively, beginning on the effective date as established by Board of Trustees action. Policies shall not be enforced retrospectively unless mandated by law.

**4.1.11** All sections of university policy have the weight of policy and shall be interpreted accordingly.

## **4.2 Policy Approval Processes**

**4.2.1** University policies adopted after the enactment of this policy must be approved through one of the following policy approval processes.

### **4.2.2 Regular approval process** (process outlined in 5.6)

**4.2.2.1** New policies, substantive revisions of existing policies, and deletions of existing policies shall be processed through the regular approval process. Non-substantive revisions of existing policies may also be processed through the regular approval process.

### **4.2.3 Temporary emergency approval process** (process outlined in 5.7)

**4.2.3.1** New policies, substantive revisions of existing policies, and suspensions of existing policies that are deemed by the president to be crucial and that must be processed in a shorter time period than is possible through the regular approval process shall be processed through the temporary emergency approval process.

**4.2.3.2** Policy proposals related to tenure, rank, and conditions of employment shall not be processed through the temporary emergency policy approval process unless mandated by law.

**4.2.3.3** Temporary emergency policies remain in effect for a specified period not to exceed one year and cannot be renewed. Temporary emergency policies (including revisions and suspensions) will expire at the conclusion of the specified period or on the effective date of a relevant policy proposal enacted through the regular approval process, whichever occurs first.



#### **4.2.4 Expedited approval process (process outlined in 5.8)**

**4.2.4.1** Non-substantive revisions of existing policies may be processed through the expedited approval process. Multiple policy proposals for non-substantive revisions may be bundled together and presented as an omnibus proposal through the expedited approval process. The approval of non-substantive revisions does not constitute the enactment of a new or revised policy and does not change the approval or effective date of such policies.

#### **4.3 Review and Maintenance**

**4.3.1** Members of the President's Council who serve as policy sponsors are responsible for reviewing and addressing the policy needs of their areas of responsibility.

**4.3.2** The Policy Office shall maintain the policy manual as well as a policy archive. The Policy Office shall facilitate the policy approval processes and notify the university community of policy proposals that are approved by the Board of Trustees.

**4.3.3** Printed versions of policies that occur in university handbooks, catalogs, etc., shall include a disclaimer that official university policies are located in the policy manual and are subject to change via the policy approval processes. University web sites that contain policies shall link to the official policies in the policy manual instead of posting separate copies of policies.

**4.3.4** The Policy Office shall coordinate a regular review of university policies with the policy sponsors. Each policy shall be reviewed on five-year intervals from its effective date, at a minimum. The reviews shall assess whether policies are still (a) in compliance with applicable laws, regulations, Board of Regents' policies, etc.; (b) consistent with other university policies addressing similar subject matters; (c) current with the university policy format, personnel, position, and entity information; and (d) meeting the needs of the University.

### **5.0 PROCEDURES**

**5.1.** Any university employee, entity, or student may make recommendations regarding university policy to a policy sponsor.

**5.1.1** If the policy sponsor supports the recommendations, he or she or a potential policy steward shall present the recommendations to the President's Council via the Policy Office.

**5.1.2.** If the President's Council determines that the recommendations warrant such action, the recommendations shall be advanced into the appropriate policy approval process as a policy proposal and a policy sponsor and policy steward shall be officially assigned by the president.



## 5.2 Policy Proposals

**5.2.1** Policy proposals shall contain the policy in its entirety (i.e., the entire text of a proposed new policy; the entire text of an existing university policy and all proposed revisions; and the entire text of an existing university policy being proposed for suspension or deletion). Policy proposals may contain supporting documentation to aid the individuals and entities that are reviewing and approving the proposal.

**5.2.2** To facilitate the policy approval processes, a proposed new policy or a proposed revision to an existing policy shall comply with formatting standards established by the President's Council and Policy Office including the use of the following policy sections: purpose, references, definitions, policy, and procedures.

**5.2.3** Policy proposals for revision may encompass the entire text of a policy or may be limited in scope to specific sections or parts.

**5.2.4** Policy proposals for revisions shall use strikethrough for deletions of existing language and underline for additions to existing language. In cases where extensive revisions are proposed, two documents shall be required: one document containing the proposed policy language with no revision marks, and one document containing the existing policy language with strikethrough and underline showing the proposed deletions and additions, respectively.

**5.2.5** Policy proposals do not have the weight of policy and shall not be implemented prior to the effective date established by the Board of Trustees.

## 5.3 Policy Drafting Committee

**5.3.1** The policy sponsor or policy steward may organize a policy drafting committee to assist the policy steward. The policy sponsor and policy steward shall work with the Policy Office to ensure consistency of voice and quality of writing.

**5.3.2** The policy drafting committee, [in consultation with the Office of General Counsel as needed](#), shall research applicable federal, state, and local laws; Board of Regents' policies; similar policies at other universities; related policies at UVU; and other information pertinent to the policy proposal.

**5.3.3** If the policy proposal is for a new policy or the revision of an existing policy, the policy drafting committee shall, in conjunction with the Policy Office, develop and write a new or revised policy draft.

**5.3.4** If the policy proposal is for the suspension or the deletion of a policy, the policy drafting committee shall write a statement regarding whether the policy should be suspended or deleted.



**5.3.5** The Policy Office, ~~and the~~ policy sponsor, and the Office of General Counsel are responsible for determining the need for legal review of a policy proposal. If deemed appropriate, the policy sponsor shall obtain and incorporate the feedback of ~~the Utah Attorney General's Office~~ the Office of General Counsel.

#### **5.4 President's Council Review**

**5.4.1** To facilitate President's Council review, the policy recommendation (if written) or policy proposal shall be submitted to the Policy Office for an assessment of its readiness to be considered by President's Council. The policy recommendation (if written) or policy proposal shall be submitted to the Policy Office with sufficient time for this assessment and for distribution to and review by the President's Council prior to the meeting in which it shall be considered.

**5.4.2** Policy recommendations shall be presented to President's Council by potential policy sponsors or stewards. Policy proposals shall be presented to President's Council by the assigned policy sponsors and stewards.

**5.4.3** Policy recommendations or policy proposals may be withdrawn by a policy sponsor at any time in the policy approval processes prior to a vote by the Board of Trustees.

**5.4.4** The President's Council shall review policy recommendations and proposals for content, need, conflict with existing policies, and duplication of existing policies. After reviewing the policy recommendations or policy proposal, policy sponsors (see 3.9) shall advise the president on whether the policy recommendation or proposal should be (a) advanced to the next stage, (b) remanded to the policy sponsor and policy steward for further development or to a previous stage, or (c) dismissed. The president's decision, and any substantive feedback of the President's Council, shall be recorded in the minutes of that body.

**5.4.5** The policy sponsor or policy steward shall incorporate feedback of the President's Council before submitting a revised version of the policy proposal to the Policy Office for the next stage of the policy approval process.

#### **5.5 Review by Board of Trustees**

**5.5.1** The president shall present the policy proposal to the Board of Trustees for its review and may withdraw it at any time prior to a vote on the policy proposal. The Board of Trustees shall consult and advise the president generally and (a) approve or (b) disapprove policy proposals (Board of Regents Policy R220 4.4).

**5.5.2** If the Board of Trustees disapproves a policy proposal that would likely be approved with non-substantive revisions, the president may (a) make the non-substantive revisions at the Board

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of Trustees meeting and request approval of the revised policy proposal, or (b) remand the policy proposal to the policy sponsor and to an appropriate stage of the approval process.

**5.5.3** If the Board of Trustees disapproves a policy proposal that would likely be approved with substantive revisions, the president may remand the policy proposal to the policy sponsor and to an appropriate stage of the approval process.

**5.5.4** The actions of the Board of Trustees shall be recorded in the minutes of that body.

## **5.6 Regular Policy Approval Process**

**5.6.1** The regular policy approval process is used for new policies, substantive revisions of existing policies, and deletions of existing policies. Non-substantive revisions may also be made through the regular policy approval process.

### **5.6.2 Preapproval Process (See 5.2.1–5.2.3)**

### **5.6.3 Regular Process Stage One—Policy Drafting and Revision**

#### **5.6.3.1 Policy Drafting Committee (See 5.3.1–5.3.5)**

#### **5.6.3.2 President’s Council Review (See 5.4.1–5.4.5)**

### **5.6.4 Regular Process Stage Two—Review by University Entities**

**5.6.4.1** The Policy Office shall post the President’s Council approved policy proposal to the policy website and notify university entities that the proposal is ready for their review and feedback.

**5.6.4.2** The policy steward shall contact the university entities and act as a resource during the review period.

**5.6.4.3** During the academic year, university entities shall have up to 60 days from the date of notification by the Policy Office to review the policy proposal and to provide the policy sponsor and/or policy steward with written feedback. If policy proposals are advanced to stage two with fewer than 60 days remaining before the end of spring semester, the review of the policy proposal may be suspended until the first day of the following fall semester, when the review period for university entities shall begin again and the university entities shall have up to 60 days to provide the policy sponsor and/or policy steward with written feedback. At the discretion of the President’s Council, university entities may be granted an additional 60 days to review policy proposals.



**5.6.4.4** The policy sponsor or policy steward shall document the feedback from the university entities and incorporate the feedback into the policy proposal or provide reasons the feedback was not incorporated. This documentation shall be submitted as part of the policy proposal to the Policy Office.

**5.6.4.5** President's Council Review (See 5.4.1–5.4.5)

**5.6.4.5.1** The President's Council may make substantive or non-substantive revisions to the policy proposal in this stage.

**5.6.5 Regular Process Stage Three—Review by University Community**

**5.6.5.1** The President's Council shall determine the length of time allotted for the university community review, which shall be not less than seven (7) and not greater than 30 calendar days.

**5.6.5.2** The Policy Office shall post the President's Council approved policy proposal to the policy website, notify the university community that it is posted for review, and indicate the closing date for feedback on the policy proposal.

**5.6.5.3** The policy sponsor or policy steward shall document the feedback from the university community and incorporate it into the policy proposal or provide reasons the feedback was not incorporated. This documentation shall be submitted as part of the policy proposal to the Policy Office.

**5.6.5.4** President's Council Review (See 5.4.1–5.4.5)

**5.6.5.5** The President's Council shall not make substantive revisions to the policy proposal in this stage, but it may remand the policy proposal to a previous stage for further development if substantive revisions are needed.

**5.6.6 Regular Process Stage Four—Review by Board of Trustees (See 5.5.1–5.5.4)**

**5.6.7 Post-Approval Process**

**5.6.7.1** Once a policy proposal has been approved by the Board of Trustees, the Policy Office shall notify the university community in a timely fashion.

**5.6.7.2** If the policy proposal is for a new policy, the Policy Office shall post the new policy in the policy manual.

**5.6.7.3** If the policy proposal is for the revision of an existing policy, the Policy Office shall post the revised policy in the policy manual in the place of the existing policy that it is replacing. The existing policy shall be placed in the policy archive.

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**5.6.7.4** If the policy proposal is for the deletion of an existing policy, the Policy Office shall delete the policy from the policy manual and maintain it in the policy archive.

**5.6.7.5** If required by Board of Regents' policy, a copy of the new or revised university policy shall be forwarded to the Board of Regents.

### **5.7 Temporary Emergency Policy Approval Process**

**5.7.1** The temporary emergency policy approval process is reserved for new policies, substantive revisions of existing policies, or suspensions of existing policies that are deemed by the president to be crucial and that must be processed in a shorter time period than is possible through the regular approval process.

**5.7.2** If it is anticipated that a university policy will be needed at the time of the expiration of a temporary emergency policy, the president shall designate a policy sponsor to oversee the development and advancement of a policy proposal through the regular approval process.

**5.7.3** Policy proposals related to tenure, rank, and conditions of employment shall not be processed in the temporary emergency policy approval process unless mandated by law.

#### **5.7.4 Preapproval Process (See 5.2.1–5.2.3)**

#### **5.7.5 Temporary Emergency Process Stage One—Policy Drafting and Revision**

**5.7.5.1** Policy Drafting Committee (See 5.3.1–5.3.5)

**5.7.5.2** President's Council Review (See 5.4.1–5.4.5)

**5.7.5.3** The president, the vice presidents, and the presidents of the Faculty Senate, PACE, and UVUSA or their designees must all be present and have a reasonable opportunity to review the temporary emergency policy proposal.

**5.7.5.4** Policy sponsors (see 3.9) shall advise the President on the policy proposal. Any substantive feedback and policy sponsor concerns together with the President's decision shall be recorded in the minutes of President's Council.

#### **5.7.6 Temporary Emergency Process Stage Two—Review by Board of Trustees (See 5.5.1–5.5.4)**



#### **5.7.7 Post-Approval Process (See 5.6.7)**

**5.7.7.1** Temporary emergency policies remain in effect for a specified period not to exceed one year and cannot be renewed. Temporary emergency policies (including revisions and suspensions) will expire at the conclusion of the specified period or on the effective date of a relevant policy proposal enacted through the regular approval process, whichever occurs first.

**5.7.7.2** A temporary emergency policy that is a new policy shall include an expiration date and be clearly identified as “temporary” on the policy itself and in the policy manual. If no relevant policy proposal is enacted through the regular approval process prior to the expiration date of such a policy, it shall no longer be in effect and shall be deleted from the policy manual.

**5.7.7.3** A temporary emergency policy that is a substantive revision of an existing university policy shall include an expiration date and be clearly identified as “temporary” on the policy itself and in the policy manual. If no relevant policy proposal is enacted through the regular approval process prior to the expiration date of such a policy, the unrevised university policy shall be returned to the policy manual in its previous state.

**5.7.7.4** A university policy that is suspended via the temporary emergency approval process shall have the expiration date and “temporarily suspended” clearly identified in the policy manual next to the policy number and policy title. The text of a university policy that has been suspended shall not be accessible to the university community via the policy manual. If no relevant policy proposal is enacted through the regular approval process prior to the expiration date of such a policy, the university policy that was suspended shall go back into effect and be returned to the policy manual in its previous state.

#### **5.8 Expedited Policy Approval Process**

**5.8.1** The expedited policy approval process is reserved for non-substantive revisions of existing university policies. The approval of non-substantive revisions does not constitute the enactment of a new or revised policy and does not change the approval or effective date of such policies.

#### **5.8.2 Preapproval Process (See 5.2.1–5.2.3)**

#### **5.8.3 Expedited Process Stage One—Policy Revision**

##### **5.8.3.1 Policy Drafting Committee (See 5.3.1–5.3.5)**

##### **5.8.3.2 President’s Council Review (See 5.4.1–5.4.5)**

**5.8.3.3** If the President’s Council determines that substantive revisions are being proposed or that substantive revisions would be required to satisfactorily revise the policy, the policy proposal may be dismissed or placed in the regular or temporary emergency approval process.

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**5.8.4 Post-Approval Process (See 5.6.7)**

**5.8.4.1** The Policy Office will prepare and maintain a list of non-substantive changes approved by the President's Council.

**5.8.4.2** The president will present the list of non-substantive changes as an information item to the Board of Trustees at their next scheduled meeting.

**5.8.4.3** After the approval of the Board of Trustees, the Policy Office shall post the revised policy in the policy manual in the place of the existing policy that it is replacing. The existing policy shall be placed in the policy archive.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity



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Proposed Policy Number and Title: 109 ~~Contacting the Attorney General's Office~~ Contacting the Office of General Counsel and the Attorney General's Office

Existing Policy Number and Title: 109 Contacting the Attorney General's Office

**Approval Process\***

<input checked="" type="checkbox"/> <b>Regular</b>	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision-LIMITED SCOPE	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	

\*See UVU Policy #101 *Policy Governing Policies* for process details.

**Draft Number and Date:** Regular, Limited Scope, Stage 4 Draft, 4/28/2016

**President's Council Sponsor:** Val Peterson **Ext.** \_\_\_\_\_

**Policy Steward:** Karen Clemes **Ext.** \_\_\_\_\_

**POLICY APPROVAL PROCESS DATES**

**Policy Drafting and Revision**

Entrance Date: 02/25/2016

**University Entities Review**

Entrance Date: 02/25/2016

**University Community Review**

Entrance Date: 04/28/2016

Open Feedback: 04/28/2016

Close Feedback 05/25/2016

**Board of Trustees Review**

Entrance Date: 05/26/2016

Approval Date: MM/DD/YYYY

**POST APPROVAL PROCESS**

Verify:

- ☐ Policy Number
- ☐ Section
- ☐ Title
- ☐ BOT approval
- ☐ Approval date
- ☐ Effective date
- ☐ Proper format of Policy Manual posting
- ☐ TOPS Pipeline and Archives update

**Policy Office personnel who verified and posted this policy to the University Policy Manual**

**Name:** \_\_\_\_\_

**Date posted and verified:** MM/DD/YYYY

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<b>POLICY TITLE</b>	<a href="#"><del>Contacting the Attorney General's Office</del> Contacting the Office of General Counsel and the Attorney General's Office</a>	<b>Policy Number</b>	109
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	
<b>Subsection</b>	Governance and Organization	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the President		

### 1.0 PURPOSE

### 2.0 REFERENCES

[3.1 Utah State Board of Regents Policy R135 \*Institutional Legal Counsel in the System of Higher Education\*](#)

### 3.0 DEFINITIONS

### 4.0 POLICY

[4.1.1 All contacts by university employees with the Attorney General's Office relating to university matters shall be arranged by the appropriate dean, department head, or vice president through the President of the University or an appropriate member of the President's staff. Only the Office of General Counsel or the Attorney General's Office may provide legal counsel to the University. University employees seeking legal counsel for University matters should contact the Office of General Counsel, after obtaining approval from the appropriate dean, administrative head, vice president, the President, or appropriate member of the President's staff. Such approval can be provided on a standing or case-by-case basis. If University employees believe that the appropriate dean, administrative head, vice president, etc. has engaged in conduct that places the University at legal risk, they may contact the General Counsel to inform the General Counsel of such a concern without obtaining the above-described approval.](#)

[4.1.2 The Office of General Counsel will comply with Regent Policy R135. As the coordinator of legal affairs for the University, the General Counsel will assign legal matters to and consult with the Attorney General's Office in accordance with Regents Policy R135 and as needed to provide legal services to the University.](#)

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4.1.3 University trustees, officers, and employees should not contact or engage outside counsel to provide legal services to the University but should instead contact the General Counsel, who will engage outside counsel if needed.

### 5.0 PROCEDURES

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

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Proposed Policy Number and Title: Policy 162 <i>Sexual Misconduct</i> (Regular)		
Existing Policy Number and Title: Policy 162 <i>Sexual Misconduct</i> (Temporary Emergency)		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision	<input type="checkbox"/> <i>Revision</i>	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
Bundled with Policy 155.		
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		

<b>Draft Number and Date:</b> <u>June 9, 2016 Stage 4</u>		
<b>President's Council Sponsor:</b> <u>Linda Makin, Michelle Taylor</u>		<b>Ext.</b> _____
<b>Policy Steward:</b> <u>Alexis Palmer, Melissa Frost, Karen Clemes</u>		<b>Ext.</b> _____

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>10/9/2014</u></p> <p><b>University Entities Review</b> Entrance Date: <u>08/27/2015</u></p> <p><b>University Community Review</b> Entrance Date: <u>03/24/2016</u> Open Feedback: <u>03/24/2016</u> Close Feedback: <u>04/25/2016</u></p> <p><b>Board of Trustees Review</b> Entrance Date: <u>06/09/2016</u></p> <p>Approval Date: <u>MM/DD/YYYY</u></p>	<p><b>POST APPROVAL PROCESS</b> Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <hr/> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b></p> <p><b>Name:</b> _____</p> <p><b>Date posted and verified:</b> <u>MM/DD/YYYY</u></p>

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<b>POLICY TITLE</b>	<i>Sexual Misconduct</i>	<b>Policy Number</b>	162
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

### 1.0 PURPOSE

**1.1** Utah Valley University is committed to maintaining a respectful and safe environment for its students, faculty, staff, and visitors. This policy defines and prohibits all forms of sexual misconduct (including sexual discrimination, sexual harassment, sexual violence, domestic violence, dating violence, human trafficking, and stalking); establishes expectations for university community members and campus visitors; details how to report a violation of this policy; describes university resources and interim measures to protect those involved in the process; outlines investigation, disciplinary, and due process procedures for addressing reported violations of this policy; and overviews the University's education, awareness, prevention, and risk-reduction programs. This policy applies to all persons who are (1) employed by, attending, or affiliated with Utah Valley University in any way; (2) participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, and guests; and/or (3) visiting a university campus or any property owned or leased by the University.

### 2.0 REFERENCES

**2.1** *Americans with Disabilities Act (ADA)* (as amended)

**2.2** *Campus Sexual Violence Elimination Act (SaVE)*—Reauthorization of the *Violence against Women Act of 2013 (VAWA)*

**2.3** *Family Educational Rights and Privacy Act (FERPA)*

**2.4** *Heath Insurance Portability and Accountability Act (HIPAA)*

**2.5** *Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act (Clery Act)*

**2.6** Title VII of the *Civil Rights Act of 1964*

**2.7** Title IX of the *Higher Education Amendments Act of 1972*

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**2.8** Utah Code § 63G-2 *Government Records Access and Management Act (GRAMA)*

**2.9** Utah Code § 77-36 *Cohabitant Abuse Procedures Act*

**2.10** Utah Code § 77-38 *Rights of Crime Victims Act*

**2.11** UVU Policy 115 *Minors on Campus and at University-sponsored Events*

**2.12** UVU Policy 154 *Workplace Violence*

**2.13** UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*

**2.14** UVU Policy 407 *Clery Act: Campus Safety and Security*

### 3.0 DEFINITIONS

**3.1 Bystander:** An individual who witnesses or becomes aware of an instance of sexual misconduct. A bystander may not be directly involved but has the choice to intervene where it is safe to do so by discouraging, preventing, or interrupting an incident, or by summoning help.

**3.2 Bystander intervention:** When bystanders proactively respond and provide assistance in a situation in which sexual misconduct has occurred, is occurring, or could occur.

**3.3 Campus Security Authority (CSA):** As required by the *Clery Act*, individuals (1) serving in positions identified by the Vice President of Finance and Administration, who have significant responsibility for student and campus activities, or (2) serving in a security role for a university activity temporarily or for a designated event and who have a duty to report sexual misconduct and all Clery-reportable crimes. These individuals may not always be university employees. For examples of designated CSAs and definitions of Clery-reportable crimes and geography, see UVU Policy 407 *Clery Act Reporting Requirements*.

**3.4 Complainant, victim, or alleged victim:** Someone who has experienced sexual misconduct and who has requested university interim measures or disciplinary action. Use of these terms does not imply that a finding of misconduct is assumed or made before an investigation has been completed.

**3.5 Consent:** Consent to engage in a sexual encounter must be given by all participating parties; must be clear, knowing, and voluntary; and may be given only by someone who is 18 years of age or older and is not mentally and/or physically incapacitated. Consent is active, not passive. Consent requires an affirmatively communicated willingness through words and/or actions to participate in sexual activity. Silence, in and of itself, may not be interpreted as consent.



**3.6 Dating/relationship violence:** Violence or threat of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on a consideration of all relevant factors, including (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.

**3.7 Discrimination:** For purposes of this policy, negative or adverse conduct towards university employees or students in the terms or conditions of employment; university admission or education; access to university programs, services, or activities; or other university benefits or services on the basis of their inclusion or perceived inclusion in the protected classes of sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity, that has the effect of denying or limiting participation in a university program or activity.

**3.8 Domestic violence:** Violence or physical harm, or threat of violence or physical harm, committed by (a) a current or former spouse or intimate partner of the alleged victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, (d) a person similarly situated to a spouse of the individual who experienced domestic violence under the domestic or family violence laws of the jurisdiction where the act of domestic violence occurred, or (e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction where the act of domestic violence occurred.

**3.9 Hostile environment:** For purposes of this policy, any unwelcome verbal, physical, written, electronic, or non-verbal conduct (whether directly, indirectly, or through a third party) of a sexual nature, or related to an individual's sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity, that is sufficiently severe, persistent, or pervasive to alter the conditions of employment or limit, interfere with, or deny educational benefits or opportunities, from both a subjective and objective viewpoint based on a totality of the circumstances, including but not limited to the frequency and severity of the conduct, whether the conduct was physically threatening or humiliating, the effect of the conduct on the individual's mental or emotional state, whether the conduct was directed at more than one person, whether the conduct arose in the context of other discriminatory conduct, and whether the speech or conduct deserves the protections of academic freedom or the First Amendment.

**3.10 Incapacitation:** An individual who is incapacitated cannot give consent to engage in a sexual encounter. Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments. Factors that could be indications of incapacitation include but are not limited to mental or physical disability; lack of sleep; alcohol; illegal, date-rape, or prescription drug use; unconsciousness; blackout; or involuntary physical restraint. Being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain consent. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the complainant was incapacitated.

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**3.11 Preponderance of evidence:** The evidentiary standard used during a sexual misconduct investigation/review to determine if a policy violation has occurred. Preponderance of evidence means it is more likely than not, or more than 50 percent in favor, that the misconduct occurred as alleged.

**3.12 Respondent:** The individual against whom an alleged complaint of sexual misconduct has been made.

**3.13 Responsible employee:** Any university employee (faculty, staff, administration) or volunteer who becomes aware of a sexual misconduct issue involving any university student or employee.

**3.14 Result:** Any initial, interim, and/or final outcome or decision by any official or entity authorized to resolve disciplinary matters within the University. The result must include any sanctions imposed by the University.

**3.15 Retaliation:** Intimidation, threats of reprisal, harassment, or other materially adverse actions, or threats of such materially adverse actions, made by or against persons employed by, attending, or affiliated with the University in any way or participating in any university program or activity, against anyone who in good faith opposes discrimination or harassment; reports or files a complaint of discrimination or harassment; honestly participates or assists in a university-related investigation, hearing, or other proceeding relating to discrimination or harassment; or otherwise asserts rights protected by Title IX, Title VII, or other applicable laws. Any action designed to prevent or discourage someone from reporting a concern regarding sexual misconduct may also be retaliation.

**3.16 Sexual assault:** A forcible or non-forcible sex offense, including actual or attempted sexual contact, with another person without that person's consent. Sexual assault includes but is not limited to involvement in any sexual contact when the victim is unable to consent, or intentional and unwelcome touching, however slight, of any body part or object, by any person upon another person, that is without consent and/or by force or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast). Sexual intercourse without consent includes acts commonly referred to as rape, statutory rape, or incest. Intercourse includes vaginal penetration by a penis, object, tongue, finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth-to-genital contact or genital-to-mouth contact), no matter how slight the penetration or contact.

**3.17 Sexual Assault Response Team (SART):** Group of trained interdepartmental university staff working collaboratively to provide services for the university community by offering specialized sexual assault intervention services, including but not limited to ensuring the immediate safety of the alleged victim, taking interim measures as necessary, and remediating the effects of substantiated sexual misconduct.

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**3.18 Sexual exploitation:** Specific forms of sexual behavior that involve non-consensual use of another individual's nudity or sexuality, excluding behavior that constitutes one of the other sexual misconduct offenses. Examples of sexual exploitation include but are not limited to

- 1) Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act without the consent of all parties);
- 2) Invasion of sexual privacy, such as allowing a third party to watch or disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without that person's consent;
- 3) Administering alcohol or drugs to another person for the purpose of making that person vulnerable to non-consensual sexual activity;
- 4) Exposing one's genitals to another person without consent;
- 5) Prostituting another individual;
- 6) Engaging in sexual trafficking; or
- 7) Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

**3.19 Sexual harassment:** Unwelcome sexual advances, requests for sexual favors, or other verbal actions including lewd or sexually suggestive comments, jokes, questions, innuendoes, remarks about clothing, body, or previous or future sexual activity; physical actions including unwelcome touching, patting, hugging, or brushing against a person's body; written, graphic, or electronic statements or depictions; or non-verbal conduct of a sexual nature (whether the conduct is direct, indirect, or by third persons) when

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, advancement, or participation in a university activity;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, advancement, or participation in a university activity; and/or
- 3) Such conduct is sufficiently severe or pervasive and it unreasonably interferes with an individual's employment or educational performance or creates an intimidating, hostile, or abusive environment for that individual's employment, education, or participation in a university activity.

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**3.20 Sexual misconduct:** Sexual misconduct includes but is not limited to acts of, or failed attempts of, dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity; hostile environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity (including intimidation and hazing/bullying); sexual harassment; sexual assault (including non-consensual sexual contact or non-consensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking.

**3.21 Stalking:** Engaging in a course of conduct (two or more acts) directed at a specific person that the actor knows or should know would cause a reasonable person to fear for his or her safety or the safety of others, to suffer other emotional distress, or that interferes with the other person's property, including harassing, threatening, following, monitoring, observing, surveilling, intimidating, delivering items, or communicating with or about another, directly, indirectly, or through a third party, by telephone, mail, electronic communication, social media, photography, or any other action, device, or method.

## 4.0 POLICY

### 4.1 Scope of Policy

**4.1.1** This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University (sometimes referred to as "third parties"). To the extent that any other university policies address sexual misconduct, this policy takes precedence and controls.

**4.1.2** Conduct subject to this policy includes the following:

- 1) Conduct on UVU premises
- 2) Conduct in the context of a UVU employment or education program or activity, including but not limited to UVU-sponsored travel, athletics, activities, research, and internship programs
- 3) Conduct that occurs off campus or via electronic media can be the subject of a complaint or report and shall be evaluated to determine whether the misconduct has continuing effects on the campus and therefore violates this policy. Allegations of off-campus sexual misconduct involving members of the university community shall be reported to the Title IX Coordinator.



## 4.2 Policy Statement

**4.2.1** As required by Title IX of the *Education Amendments of 1972*, Title VII of the *Civil Rights Act of 1964*, and related applicable laws, the University prohibits all forms of sexual misconduct. The University shall respond promptly and effectively to reports of sexual misconduct and shall take appropriate action to stop, prevent recurrence of, and remediate the effects of sexual misconduct on the complainant and/or the university community. The University may discipline any person who violates this policy, up to and including termination of employment or expulsion from the University.

**4.2.2** The University works to prevent sexual misconduct through education, training, and policies, and to remediate the effects of sexual misconduct by protecting the rights of the parties involved and providing support services to members of the university community. All members of the university community, including visitors and bystanders, have the responsibility to the extent possible, to prevent sexual misconduct, to report sexual misconduct, and to assist those who have experienced sexual misconduct.

**4.2.3** University community members are responsible for knowing the information and procedures in this policy. Reports of sexual misconduct made after the fact are governed by the policy in place at the time of the alleged sexual misconduct. However, procedures applicable are those in place at the time of the resolution.

**4.2.4** Nothing in the policy shall be construed in a manner that impinges on the rights or privileges of individuals protected by the US Constitution.

**4.2.5** Nothing in this policy shall be interpreted to alter the status of employees who are otherwise at will.

## 4.3 Prohibited Conduct

**4.3.1** Violations of this policy include but are not limited to acts of, or failed attempts of, dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity; hostile environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity (including intimidation and hazing/bullying); sexual harassment; sexual assault (including non-consensual sexual contact or non-consensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking.

**4.3.2** The University prohibits retaliation as defined in this policy. The University shall take steps to prevent retaliation and shall take strong responsive action to threats or acts of retaliation, up to and including termination of employment or expulsion from the University.



**4.3.3** Individuals who, in bad faith, deliberately make false or malicious accusations of violation of this policy shall be subject to disciplinary action, up to and including termination of employment or expulsion from the University. However, a no-violation finding by the investigator does not in itself constitute proof of a false or malicious accusation.

#### **4.4 Determination of Consent**

**4.4.1** All members of the university community must understand how to determine consent to sexual activity. All participants in the sexual activity are responsible for ensuring that they have the consent of all involved to engage in sexual activity. Any individual who engages in sexual activity without receiving clear, knowing, and voluntary consent, or in which one of the parties withdraws consent at any point but is forced to participate, has violated this policy.

**4.4.2** Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Past consent to sexual activity does not imply ongoing future consent. The current or past existence of a dating or marital relationship does not imply consent. Whether an individual has taken advantage of a position of authority over an alleged victim may be a factor in determining consent or coercion.

**4.4.3** There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

**4.4.4** Sexual activity with someone deemed unable to grant clear, knowing, and voluntary consent constitutes a violation of this policy. This includes, but is not limited to, individuals who are

1) Mentally and/or physically incapacitated for any reason (such as by mental or physical disability; lack of sleep; alcohol; illegal, date-rape or prescription drug use; unconsciousness; blackout; or involuntary physical restraint);

2) Under the age of 18; or

3) Forced to give consent in any way, including but not limited to by coercion, intimidation, duress, deception, threats, implied threats, and/or physical force.

**4.4.5** Use of alcohol or other drugs (prescription or illegal) does not waive the requirement to obtain consent from all involved to engage in sexual activity and shall not provide a defense for any behavior that violates this policy.

**4.4.6** The University views amorous or sexual relationships between those in a position of authority and their subordinates, such as in a teaching, evaluating, supervising, or advising role as part of a school program or in an employment situation, as a power relationship that undermines and/or eliminates the ability of the subordinate to provide consent to an amorous or

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sexual relationship and thereby violates this policy. Moreover, those in a position of authority may not use their position of authority to reward, penalize, or retaliate against, either directly or indirectly, any person or subordinate with whom he or she is having, or who has rejected, an amorous or sexual relationship.

#### **4.5 Safeguards for Privacy**

**4.5.1** The University is committed to protecting the privacy of complainants and respondents and any party involved in a sexual misconduct report or process to the extent allowed by the *Utah Government Records and Management Act (GRAMA)*, the federal *Family Educational Rights and Privacy Act (FERPA)*, the federal *Health Information Portability and Accountability Act (HIPAA)*, and other applicable laws.

**4.5.2** The University shall make reasonable efforts to protect the privacy of those involved in reported incidents, including sharing information only with those who have a “need to know” due to their responsibility to eliminate the reported conduct, prevent its recurrence, and/or address its effects.

**4.5.3** All university employees who are involved in responding to Title IX reports of sexual misconduct shall receive training about safeguarding private information in accordance with applicable laws.

#### **4.6 Requests for Confidentiality**

**4.6.1** In determining whether to honor a complainant’s request to maintain his or her privacy, the University shall consider the facts and circumstances and the safety of the university community in accordance with applicable law. However, requests for anonymity may limit the University’s ability to investigate or respond in a more targeted way, such as offering reasonably available interim protective measures or modifications to the complainant.

**4.6.2** When the University agrees to honor a complainant’s request to maintain his or her privacy and/or not conduct further investigation, the matter shall be considered resolved, with the University taking appropriate steps and protective measures or modifications.

**4.6.3** The University recognizes that a complainant may initially be hesitant to move forward, but later seek an investigation. Where a report was closed because the University agreed to the complainant’s request to maintain his or her privacy and/or not conduct further investigation, the matter may later be reopened at the discretion of the Title IX Coordinator or designated deputy coordinator based on such factors as complainant request and/or concerns about safety to the university community. The passage of time and the memory/availability of witnesses may limit the University’s ability to investigate at a later date.



#### **4.7 Reporting an Incident of Sexual Misconduct**

**4.7.1** The University strongly encourages individuals who have experienced sexual misconduct or who are aware of alleged incidents to report sexual misconduct to the Title IX Coordinator or deputy coordinators, to UVU Police, and/or to other university administrators set forth in this policy. Police investigations and Title IX investigations may proceed simultaneously, with specific procedures set forth in 5.8.9.

**4.7.2** All university responsible employees and CSAs, with the exception of licensed mental health counselors or members of the clergy who are working within the scope of their license or religious assignment, are required to report all incidents of sexual misconduct to the Title IX Coordinator.

**4.7.3** Upon receipt of a report involving a student or employee complainant, the University shall take and/or make available reasonable and appropriate interim measures to protect the complainant, regardless of whether the complainant requests an investigation, initiates a code of conduct proceeding, or makes a criminal report.

**4.7.4** Anyone who reports or participates in an investigation of sexual misconduct who might have engaged in a personal violation of the University drug or alcohol policy around the time of the alleged sexual misconduct incident shall not be disciplined by the University for minor alcohol policy violations.

**4.7.5** Individuals are encouraged to report incidents of sexual misconduct within 180 days of the incident. While there is no time limit on reporting violations of this policy, the University's ability to respond may be limited as evidence may be less available and the University may no longer have jurisdiction over complainants or respondents who are no longer affiliated with the University.

#### **4.8 Investigations and Disciplinary Proceedings**

**4.8.1** The University shall provide prompt, fair, and impartial investigations and disciplinary proceedings. During these proceedings, both the complainant and the respondent shall be provided equitable rights and opportunities, as outlined in these procedures.

**4.8.2** The University is committed to ensuring that its resolution process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome. University officials who are designated to conduct and/or participate in sexual misconduct investigations or proceedings shall be trained on how to conduct these investigations or proceedings in a manner free from bias or intimidation. Officials shall also be trained to recognize and acknowledge any potential conflict of interest. Any party who believes there is bias or conflict of interest may submit a written request to remove the person from the process to the Title IX Coordinator or the Associate Vice President of Human Resources. The written request should include the specific

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rationale as to why the requestor believes the bias or conflict could materially impact the outcome.

#### **4.9 Training**

**4.9.1** The University shall provide training, as required by applicable law and recommended by best practices, to the Title IX Coordinator and deputy coordinators, review/appeal board members, CSAs, SART, and other employees involved in providing services relevant to sexual misconduct intervention.

**4.9.2** In compliance with applicable federal law, the University shall provide initial training for new employees and incoming students and ongoing training for students and employees about the prevention and reporting of sexual misconduct and appropriate resources and services provided by the University and the community.

### **5.0 PROCEDURES**

#### **5.1 Scope and Applicability of These Procedures**

**5.1.1** All sexual misconduct complaints are subject to the procedures set forth in this policy. Unless the sexual misconduct also violates additional university policies, other university policies and procedures do not apply to sexual misconduct reports, processes, and proceedings. All misconduct not involving sexual misconduct shall be addressed through the procedures found in the respective student, faculty, and staff university policies.

#### **5.2 Resources for Victims of Sexual Assault**

**5.2.1** If a report involves potentially criminal acts, alleged victims shall be informed in writing that they have the option to make a formal criminal complaint by reporting the incident to UVU Police, Ph. (801) 863-5555, or to local police by calling 911.

**5.2.2** Regardless of whether they decide to report an incident of sexual misconduct, alleged victims of sexual assault shall be encouraged to preserve evidence in case they decide later to report the incident to law enforcement. It is critical to preserve evidence as soon as possible after the incident.

**5.2.3** If the incident just occurred, evidence should be preserved as follows:

1) The victim should call 911 and get to a safe place as soon as possible. Seeking assistance by promptly calling 911 may be important to ensuring an individual's physical safety and/or to obtaining immediate medical care or other support. It may also be necessary to preserve evidence, which can assist the University and/or law enforcement in responding effectively.

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- 2) The victim should go to a hospital emergency room where trained medical personnel can collect evidence through forensic rape exam, check for injuries, and provide emergency contraception and limited STD-preventative medication.
- 3) Even if the victim chooses not to seek immediate medical care, he or she should try to preserve all the physical evidence (keeping in mind it may be possible to collect evidence of the offense up to five days following the incident).
- 4) The victim should not shower, bathe, or douche.
- 5) The victim should not brush his or her teeth.
- 6) The victim should save the clothing that he or she was wearing in a brown paper bag.
- 7) If the incident took place in the victim's home, he or she should not rearrange and/or clean up anything.
- 8) The victim should be encouraged to seek support by talking with someone he or she trusts (friend, family, advisor, community, or university resource).
- 9) The victim may contact the Utah County 24-hour Crisis Line, Ph. (801) 226-4433. Trained advocates are available to provide support and to talk with the victim about available options.
- 10) The victim should decide whether to report the incident to the police and/or university officials (keeping in mind that delay may result in lost evidence).

**5.2.4** The University provides confidential crisis and medical services on campus. These resources are available to alleged victims regardless of whether they report to UVU Police or request university disciplinary proceedings. Students are encouraged to contact Student Health Services, and benefits-eligible employees are encouraged to contact the Employee Assistance Program. Following are some of the university resources that are available:

UVU Police	(801) 863-5555
Title IX Coordinator	(801) 863-7590
Student Conduct Office	(801) 863-8665
University Ombuds	(801) 863-7237

The following university office provides strictly confidential services:

Student Health/Counseling    (801) 863-8876

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**5.2.5** Individuals may also choose to contact community resources such as local victim offices, counseling, clergy, chaplains, and healthcare services. For a list of such resources, contact the Title IX Coordinator or university Student Health Services and/or see UVU's Support Services & Options brochure, which can be found at <https://www.uvu.edu/studentconduct/docs/title9optionsbrochure.pdf>.

### **5.3 Reporting an Incident of Sexual Misconduct**

**5.3.1** Faculty, staff, or students who have experienced sexual misconduct should report it to the Title IX Coordinator. Faculty, staff, or students who become aware of sexual misconduct involving others within the university community shall report such issues to the Title IX Coordinator, who is charged with investigating reports of violations of this policy.

**5.3.2** The Title IX Coordinator, who oversees all Title IX investigations and coordinates the University's response to sexual misconduct, may be reached at 800 West University Parkway, Browning Administration Building, Suite 203, Orem, UT 84058; phone (801) 863-7590; e-mail [TitleIXCoordinator@uvu.edu](mailto:TitleIXCoordinator@uvu.edu). The names, office addresses, telephone numbers, and e-mail addresses of the Title IX Coordinator and deputy Title IX coordinators can be found on the University's Title IX website at [http://www.uvu.edu/equalopportunity/title\\_9.html](http://www.uvu.edu/equalopportunity/title_9.html).

**5.3.3** Individuals may also submit reports, including anonymous reports, through EthicsPoint, the University's 24-hour hotline provider, by calling (877) 228-5401 or by submitting information online at <https://secure.ethicspoint.com/domain/media/en/gui/23421/index.html>.

### **5.4 Confidentiality and Reporting**

**5.4.1** To make informed choices when consulting campus resources, alleged victims should be aware of confidentiality and mandatory reporting requirements. Although the University will consider the requests of a complainant, complainants should be aware that the following levels of confidentiality, as required by state and federal law, apply to university employees who receive reports of sexual misconduct:

1) *Strictly Confidential*: Conversations with university licensed mental health counselors or members of the clergy who are working within the scope of their license or religious assignment can remain anonymous except in rare circumstances when the alleged victim is a minor or a vulnerable adult, or when there is imminent danger to the alleged victim or others in the community. In some cases, these individuals are required to report to UVU Police for *Clergy Act* purposes that an incident occurred, but the identities of the alleged victims are not shared.

2) *Mostly Private*: Except for conversations that occur with the persons listed under "strictly confidential" above, conversations with faculty or staff about sexual misconduct must be reported to the Title IX Coordinator or a designated deputy coordinator. In those cases, the

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Title IX Coordinator or designated deputy coordinator shall only share such information with administrators on a “need-to-know” basis. The Title IX Coordinator or designated deputy coordinator will review requests for anonymity in accordance with this policy. Reports of sexual misconduct to the following individuals are considered “mostly private,” with a requirement that identities of alleged victims be reported to the Title IX Coordinator:

- a) Designated campus security authorities (CSA)
  - b) Responsible employees
  - c) Students who serve in an ongoing peer-advising role (such as Work Study) are also expected to report to the Title IX Coordinator if they learn of sexual misconduct while working. If they learn of the incident outside the workplace, they are not required to report but are encouraged to follow the recommendations presented in bystander prevention training.
- 3) *Confidentiality Limited by State Law*: If reported to UVU Police, some exploratory conversations are confidential. Alleged victims may meet with a detective or officer without immediately triggering a full-scale investigation or the requirement to press criminal charges. Police reports, with identifying information redacted, may be available to the public upon request only if permitted by *GRAMA* and other applicable laws.

## **5.5 Third-Party/Bystander Reporting Obligations**

**5.5.1** Any responsible employee or CSA who receives a sexual misconduct report shall inform the complainant as soon as possible about his or her duty to report, how the complainant’s privacy will be protected, what levels of confidentiality can be offered, and the University’s Clery reporting obligations. Responsible employees or CSAs shall report information they learn about alleged or possible sexual misconduct incidents to the Title IX Coordinator within 24 hours. For after-hours reporting to the Title IX Coordinator, responsible employees or CSAs should use the link or phone number found on the University’s Title IX webpage.

**5.5.2** Any incident involving a minor shall be immediately reported to UVU Police or to the local police department if the incident occurred off campus. Responsible employees or CSAs who become aware of allegations involving a minor shall notify the Title IX Coordinator and their supervisor that they have reported the allegation to the police, and must follow procedures required by Policy 115 *Minors on Campus and at University-Sponsored Events*.

**5.5.3** For third-party complainants, the University shall provide reasonable protective measures as appropriate and available, based on consideration of the role of the third party, the nature of any contractual or other relationship with the University, the relationship of the respondent to the University, and the facts and/or evidence received.



## **5.6 Preliminary Review of Reports of Sexual Misconduct**

**5.6.1** Within three business days (sooner if there appears to be an imminent safety risk) of receiving a report of sexual misconduct, the Title IX Coordinator or designated deputy coordinator shall conduct a preliminary review that includes the following:

- 1) Assess the nature and circumstances of the report.
- 2) Address the immediate physical safety and emotional well-being needs of the complainant.
- 3) Provide the complainant with information about options for police and/or university code-of-conduct action (including the option of pursuing both or neither), and information about university policy and procedures.
- 4) Provide referral to SART resources and encourage complainants to use university and community services for victims of sexual misconduct.
- 5) Initiate any necessary interim measures intended to address the short-term effects of sexual misconduct, which may include referral to counseling and/or health services or referral to the employee assistance program, support for modification to housing arrangements, altering work arrangements for employees, a safety plan (such as providing campus escorts), implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc. At the recommendation of the Title IX Coordinator or designated deputy coordinator, the responsible university administrator (as defined in 5.8.14) may also impose an interim suspension of a student, employee, visitor, or organization, or invoke other safety measures temporarily pending the outcome of the investigation and subsequent proceedings.
- 6) Consider the complainant's request for anonymity and assess and determine the appropriate university response and whether there is reasonable cause to believe that this policy has been violated and that an investigation is necessary.
- 7) Assess the reported conduct for any Clery obligations, including entry in the crime log or issuance of a timely warning, and report to UVU Police when necessary.

**5.6.2** If the Title IX Coordinator or designated deputy coordinator determines that there is no reasonable cause to believe that this policy was violated and/or that an investigation is not necessary, he or she shall issue a written notice of dismissal to the complainant.

**5.6.3** If the Title IX Coordinator or designated deputy coordinator determines that there is reasonable cause to believe that this policy was violated and/or that an investigation is necessary, he or she shall report the complaint to the following person:



Respondent's Affiliation with the University	Person to Whom the Complaint is Reported
Student	Director of Student Conduct and Conflict Resolution
Faculty member	Associate Vice President of Academic Administration
Staff member (including executive employees)	Director of Employment Services
Contractor/vendor	Vice President of Finance and Administration

## 5.7 Informal Resolution

**5.7.1** Because each case is different, the Title IX Coordinator or designated deputy coordinator shall tailor each resolution to the specific facts of the case. The Title IX Coordinator or designated deputy coordinator shall determine whether reports of sexual misconduct are appropriate for informal resolution, mediation, or require an investigation.

**5.7.2** Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary; the University shall not compel either party to engage in informal resolution. Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports. Informal resolution may not be used in cases involving sexual violence, even if the complainant volunteers for informal resolution. Informal resolution may also be inappropriate when one or both of the parties are reluctant to participate in good faith.

**5.7.3** Informal resolution may include an inquiry into the facts, but typically does not include an investigation. Informal resolution is flexible and includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Informal resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to ensure that the resolution has resolved concerns effectively.

**5.7.4** Informal resolution shall be concluded within 15 business days from when the Title IX Coordinator receives the complaint. Where this is not reasonably possible, the Title IX Coordinator or designated deputy coordinator shall notify the complainant in writing that resolution of the complaint will be delayed and indicate the reasons for the delay. All informal resolution efforts shall be documented.

**5.7.5** If informal complaint resolution is pursued and complainants have not requested anonymity, respondents will be notified in writing of the concern and that no disciplinary action can be taken against them as part of the early resolution agreement without their agreement. Within seven business days of concluding informal resolution of a complaint, the Title IX

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Coordinator or designated deputy coordinator shall notify the complainant and respondent in writing of the resolution that was agreed upon.

**5.7.6** Participation in informal resolution does not prohibit either party from terminating informal resolution and/or requesting an investigation at any point during the informal resolution process. Where a report was closed after informal resolution, the matter may later be reopened at the discretion of the Title IX Coordinator or designated deputy coordinator when requested by the complainant and/or if the Title IX Coordinator or designated deputy coordinator determines there is a risk to the safety of the university community.

## **5.8 Investigation**

**5.8.1** If the Title IX Coordinator or designated deputy coordinator determines an investigation is necessary, the University shall conduct a thorough, reliable, and impartial internal administrative investigation by interviewing witnesses, collecting documentary evidence, and preparing a written report of findings. The purpose of the investigation is to establish whether there is a reasonable basis, based on a preponderance of the evidence, for concluding that the alleged violation of this policy has occurred. The University reserves the right to engage an outside investigator to conduct the investigation if it is determined there is a conflict of interest or other compelling reason to do so.

**5.8.2** Complainants and respondents shall be treated with respect throughout the investigation process, disciplinary process, and other proceedings:

- 1) Complainants and respondents can expect prompt and equitable resolution of allegations of prohibited sexual misconduct.
- 2) Complainants and respondents can expect privacy in accordance with this policy and any legal requirements.
- 3) Complainants can expect freedom from retaliation for making a good faith report of prohibited sexual misconduct or participating under any investigation or proceeding under this policy.
- 4) Respondents have the responsibility to refrain from retaliation directed against any person for making a good faith report of prohibited sexual misconduct or participating under any proceeding under this policy.
- 5) Respondents, complainants, and witnesses have the responsibility to provide truthful information in connection with any report, investigation, or resolution or prohibited sexual misconduct under this policy.
- 6) Complainants and respondents shall have interim measures available and be given the opportunity to request modifications necessary for physical and/or emotional safety.

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- 7) Complainants and respondents shall be given timely and equal access to allegations and given an opportunity to respond to information that will be used in any disciplinary proceeding against them.
- 8) Complainants and respondents shall have the opportunity to offer information, present evidence, and identify witnesses during an investigation.
- 9) Complainants and respondents shall be given timely notice of meetings where their presence is necessary.
- 10) Complainants and respondents shall receive simultaneous notification, in writing, of the results of any proceedings.
- 11) Complainants and respondents shall have the opportunity to articulate concerns or issues about proceedings under this policy.
- 12) Complainants and respondents shall have a reasonable time to prepare any response permitted under this policy.
- 13) Complainants and respondents shall receive written notice of any necessary extensions of timeframes under this policy.
- 14) Complainants and respondents may request accommodations necessary under the *Americans with Disabilities Act (ADA)* through the Title IX Coordinator or designated deputy coordinator, who will refer the request to the appropriate ADA coordinator and then implement approved accommodations.

**5.8.3** When proceeding to investigation, the investigator shall ask the complainant to provide written notice of the allegations, including a concise statement describing the incident, when and where the misconduct occurred, and why the complainant believes it violates university policy, and propose a desired resolution. The complainant shall be asked to provide and preserve all corroborating or potentially relevant evidence in any format, list potential witness names, and sign the statement. From this information, the Title IX Coordinator or designated deputy coordinator shall prepare a summary of allegations and relevant information from the complainant's statement for the respondent. The complainant will review the summary and statement, make any necessary corrections, and affirm the summary by signature.

**5.8.4** Unless the complainant has requested anonymity, by requesting investigation on the complaint form and/or signing the summary of allegations, the complainant is giving the investigator consent to discuss the information provided with other persons who may have relevant factual knowledge of the circumstances of the complaint and is authorizing the collection and examination of all records and other documentation relevant to the complaint. In

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cases where a complainant does not want to pursue an investigation, the Title IX Coordinator or designated deputy coordinator shall inform the complainant that the ability to investigate and/or remediate may be limited.

**5.8.5** If the complainant refuses to sign the summary, the coordinator may (1) note that the allegations have been withdrawn and end the investigation, or (2) note the complainant has refused to sign the summary and proceed to investigation to determine what occurred and to protect the University's interest in maintaining a safe environment free from sexual misconduct.

**5.8.6** The investigator shall provide the respondent with the summary of the complainant's allegations and a copy of this policy and shall request a written response from the respondent. The respondent shall also be asked to provide and preserve all corroborating or potentially relevant evidence in any format, list potential witness names, and sign any response to the allegations. In preparing the summary of complainant's allegations for the respondent, the Title IX Coordinator or designated deputy coordinator has the discretion to redact names and/or witnesses to protect the identity and ensure the safety of the complainant and/or witnesses. The respondent may prepare and submit a signed written statement to admit or deny the allegations, provide an explanation why any conduct was not a violation of the policy, provide all corroborating evidence, list potential witness names, and state whether complainant's proposed resolution is appropriate.

**5.8.7** Upon receipt of the written response from the complainant or after the reply period expires without a response, the investigator shall send a written request to or meet with the complainant to clarify any discrepancies.

**5.8.8** The Title IX Coordinator shall choose the investigator(s), except in cases where the Title IX Coordinator or others involved in the investigation have a conflict of interest, in which case the University's Office of General Counsel shall select internal or external impartial investigator(s).

**5.8.9** If the alleged misconduct is also the subject of a criminal investigation, the investigator(s) may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this policy. However, the investigator(s) shall coordinate their fact-finding efforts with the police investigation. Once notified that the police have completed gathering of evidence (not the ultimate outcome of the investigation or the filing of any criminal charges), the investigator(s) shall promptly resume and complete their fact-finding for the sexual misconduct case.

**5.8.10** To provide a prompt, thorough, fair, and impartial investigation and resolution, all investigations of reports of sexual misconduct shall incorporate the following standards:

1) The respondent shall be provided the name of the complainant (unless the complainant has requested anonymity), a notice of request for investigation, a written statement of the allegations,



and a copy of this policy. The respondent shall be afforded a full opportunity to respond to the allegations.

2) The investigator(s) conducting the investigation shall be familiar with this policy, have training or experience in conducting investigations, and shall be familiar with applicable university policies and procedures. For cases involving allegations of sexual violence, the individual(s) conducting the investigation must receive annual training on issues related to sexual violence. Such training includes how to conduct an investigation that protects the safety of complainants and promotes accountability.

3) Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation. Participants shall also be reminded during the process not to retaliate against other parties, witnesses, or other participants in the process.

4) The investigator(s) or others shall not question the complainant, or seek evidence, regarding the complainant's prior sexual conduct with anyone other than the respondent(s). The investigator(s) shall also apply the principles of consent set forth in this policy, including the principle that evidence or prior consensual dating or a sexual relationship between the parties, in itself, does not imply consent or preclude a finding of sexual misconduct.

5) The investigator shall apply a preponderance of evidence standard to determine whether the sexual misconduct occurred as alleged and whether there has been a violation of this policy.

6) If the complainant chooses to have a support person, the respondent may have a support person present when he or she is interviewed and at any subsequent proceeding or related meeting. The complainant may choose a support person, provided the support person does not pose a conflict of interest to the process, does not disrupt the meeting, and does not speak on behalf of the parties. Generally, the support person is limited to quietly conferring with the party through written correspondence or whisper, unless otherwise required by applicable law.

7) At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate university administrators. Failure by a party to comply with the terms of interim protections may be considered a separate violation of this policy.

8) The investigation shall be completed and the final investigation summary provided to the responsible university administrator as promptly as possible, and no later than 50 calendar days from the determination by the Title IX Coordinator or designated deputy coordinator that an investigation is warranted. Investigators shall provide regular status updates to both parties and administrators with a need to know. When circumstances require an extension to complete a



thorough investigation, the investigator shall inform both parties in writing of the expected completion date.

9) Parties and witnesses are expected to cooperate with and participate in the University's investigation.

10) The complainant and respondent shall be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with university policies protecting individuals' privacy and applicable law, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the respondent. The investigator shall also advise the complainant and respondent of the existence of options outside the University that may be pursued.

**5.8.11** Upon conclusion of the investigation, the investigator(s) shall prepare a draft written outline that summarizes the complainant's allegations and respondent's responses, synthesizes the areas of agreement and disagreement between the parties, and lists the evidence relied on and the number of witnesses supporting or opposing each allegation. Before the final findings are made and the report is finalized, the complainant and the respondent will each be given the opportunity to review this draft written outline in the offices of the Title IX Coordinator, designated deputy coordinator, or investigator. The parties shall not receive an electronic or written copy, nor may they photograph, record or copy the draft written outline, but they will be permitted to take notes and write questions to the investigator that will be left with the investigator. A complainant and respondent may submit any additional comment or information to the investigator within five business days of the date of the notice of the opportunity to review the draft written outline. This is the final opportunity for the parties to identify any additional information or witnesses. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator at this juncture shall not be considered by the investigator.

**5.8.12** The investigator(s) shall prepare a final investigation summary that contains a written summary of the findings (including a statement of the allegations and issues, the positions of the parties, a summary of evidence, findings, and a determination whether policy has been violated). The final investigation summary may also contain a recommendation for actions to resolve the complaint, including preventive remedies for the complainant, and a referral to disciplinary procedures, as appropriate. Unless there is a conflict, or an outside investigator was engaged, the Title IX Coordinator shall review all investigation summaries before they are finalized.

**5.8.13** The possible findings of the investigation are the following:



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- 1) A decision of “unfounded” indicates that either there is insufficient evidence for the investigators to conclude that the event(s) occurred as alleged, or even if the event(s) occurred, it/they did not constitute sexual misconduct.
- 2) A decision of “inconclusive” means that the evidence provided by both parties did not reach a preponderance of evidence in favor of either party.
- 3) A decision of “substantiated” means that the allegation occurred as alleged by a preponderance of evidence in favor of the complainant.

**5.8.14** The final investigation summary shall be submitted to the responsible university administrator designated below with authority to implement actions and/or discipline necessary to resolve the complaint. The responsible university administrator should consult with the Title IX Coordinator, Human Resources, and the Office of General Counsel, as applicable. The final investigation summary may be used as evidence in other related procedures, such as subsequent complaints, disciplinary actions, and/or reviews or appeals.

<b>Respondent’s Affiliation with the University</b>	<b>Responsible University Administrator</b>
Student	Director of Student Conduct (or the Dean of Students if the Director of Student Conduct was the investigator)
Faculty member	The dean of the faculty member’s college (in consultation with the Associate Vice President of Academic Administration)
Executive employee or direct report of a vice president	Vice president of the relevant department
Administration or staff member who is not an executive employee and does not report directly to a vice president	Direct report of the vice president, or another senior-level administrator designated by the vice president, of the department in which the respondent is employed
Vice president or direct report of the University President	University President
Contractor, vendor, or visitor	Vice President of Finance and Administration

**5.8.15** Nothing in this procedure shall be interpreted to alter the status of otherwise at-will employees.

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## 5.9 Sanctions and Remedies

**5.9.1** Upon receiving the final investigation summary and the Title IX Coordinator's or designated deputy coordinator's recommendations, the responsible university administrator shall promptly determine the appropriate sanctions and remedies, including offering remedies to the complainant and/or university community, implementing changes in programs and activities, providing training, and the imposition of any disciplinary sanctions, based on the investigative findings. In consultation with the Title IX Coordinator, Human Resources, and the Office of General Counsel, as needed, the responsible university administrator shall ensure sanctions and remedies are appropriate to end the prohibited conduct, prevent further violation of this policy, and remedy the effects of any violation. In determining the appropriate sanction(s), the responsible university administrator (and the executive university administrator and review panel, should there be a review) shall be guided by a number of considerations, including:

- 1) The severity, persistence, or pervasiveness of the misconduct;
- 2) The nature of violence in the misconduct and/or use of weapons, drugs, or alcohol (if applicable);
- 3) The impact of the misconduct on the complainant;
- 4) The impact or implications of the misconduct within the University community;
- 5) Prior misconduct by the respondent, including the respondent's relevant prior disciplinary history;
- 6) Whether the respondent has accepted responsibility for the misconduct;
- 7) The maintenance of a safe, nondiscriminatory, and respectful working and learning environment; and
- 8) Any other mitigating, aggravating, or compelling factors.

**5.9.2** Respondents who are found to have violated this sexual misconduct policy may be subject to sanctions, depending on the circumstances and the severity of the violation, as follows:

- 1) Possible sanctions against faculty and non-faculty employees for violations of this policy include verbal counseling, written warning, probation, reassignment, transfer, demotion, reduction in pay, suspension, termination of employment, and banning from campus.
- 2) Possible sanctions against students for violations of this policy include any sanctions described in UVU Policy 541 *Student Rights and Responsibilities Code*, such as fines, restitution,



interim suspension, suspension, suspension withheld, warning, probation, expulsion, withholding diploma, revocation of degree, discretionary sanction, and organizational sanction.

3) Possible sanctions against vendors or visitors to campus who are neither students nor employees of the University include banning the vendors/visitors from all or part(s) of the University and/or ending business relationships with the vendors.

**5.9.3** Unless there are unusual circumstances that would require a delay, the responsible university administrator, with the assistance of the Title IX Coordinator, shall communicate the outcome of the investigation, including any sanctions and remedies determined by that administrator and the University's procedures for seeking a review/appeal of the outcome, in writing to both the complainant and the respondent simultaneously ("outcome notice") within five business days of receipt of the final investigation summary. However, the responsible university administrator, in consultation with the Title IX Coordinator or designated deputy coordinator, may choose not to disclose the sanctions, and shall not disclose the discipline imposed on a respondent student, except under the following circumstances:

- 1) The discipline directly affects the other party, such as when the respondent student is ordered to stay away from the other party, is transferred to another job site, worksite, class, or is suspended or dismissed from the University;
- 2) The complainant alleged sexual misconduct involving a crime of violence or a non-forcible sex offense; or
- 3) The respondent student gives his or her written permission to disclose the discipline.

**5.9.4** The University reserves the right to report findings of criminal misconduct to the police.

## **5.10 Review of Sanctions and Remedies (Reviews)**

**5.10.1** Student or employee (faculty, administration, or staff) complainants or respondents, or a Title IX Coordinator acting on behalf of an anonymous complainant, may seek a review of sanctions and/or remedies by requesting an administrative review or appeal ("review") within five business days from the date of the delivery of the outcome notice. A written request for review must be submitted to the Title IX Coordinator and may not exceed 20 pages in length. Untimely requests will not be considered absent extraordinary circumstances. Activities such as graduation, study abroad, internships/externships, business travel, or education, sabbatical, or extracurricular activities generally do not in themselves constitute extraordinary circumstances. A review may be withdrawn by the person requesting the review at any time without prejudice.

**5.10.2** The party requesting a review must identify in the written request at least one or more of the following grounds as the reason for seeking the review:

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- 1) New evidence unavailable to the party during the investigation has been discovered that could substantially impact the investigation findings and/or resolution.
- 2) Procedural errors raising substantial doubt that the procedures outlined in Policy 162 were not followed, or that the investigation was not thorough, fair, and/or impartial, which substantially impacted the outcome of the investigation.
- 3) The sanction imposed is substantially disproportionate to the severity of the violation (i.e., too severe or not severe enough).
- 4) The non-disciplinary aspects of the resolution are not reasonably designed to correct the discriminatory effects on the complainant and/or on others who may have been affected or to prevent recurrence or further discriminatory or otherwise inappropriate actions.

**5.10.3** If the responsible university administrator has determined that an employee (faculty, administrator, or staff) should be terminated from employment or that a student should be expelled from the University, that respondent has the right to a review if he or she provides a written request for review within the timeframe stated in 5.10.1. The written request for review must still provide one or more of the grounds for review stated in 5.10.2.

**5.10.4** The final resolution of the responsible university administrator shall be affirmed unless the review panel determines by a majority vote that the party seeking a review has demonstrated by a preponderance of the evidence that one or more of the grounds stated in 5.10.2 has been met and the review panel determines that modification(s) to the decision should be recommended. While a review is pending, interim sanctions shall be imposed by the responsible university administrator, but irreversible sanctions shall not be imposed until the review process is complete. For example, if termination from employment has been recommended, a respondent may be suspended from employment (on a paid or unpaid basis) during the review process, but a termination of employment shall not be imposed until the review process is complete and the termination recommendation is upheld.

**5.10.5** Information shared during the review process should remain confidential. A party may share information with his or her designated support person, who must agree not to share that information with others. The University shall not be responsible for disclosures made by the parties, who will bear individual liability for their disclosures.

**5.10.6** Upon receipt of the written request for review, the Title IX Coordinator or designated deputy coordinator shall provide the party not requesting the review a copy of the request and invite that responding party to submit a written response within five business days. The Title IX Coordinator or designated deputy coordinator shall then convene a three-member review panel (described in 5.10.8), which shall determine whether sufficient cause exists under 5.10.2 and 5.10.3 for review. The Title IX Coordinator or designated deputy coordinator shall then notify both parties in writing of this determination. If a review is warranted, the review panel shall

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convene within five business days of this determination date. All meetings of the review panel are closed sessions.

**5.10.7** The complainant, respondent, and responsible university administrator shall be informed of the date of the review at least five business days before the date of the review.

**5.10.8** The University maintains a pool of faculty, staff, and students trained in Title IX requirements, Policy 162, and related procedures, who may be assigned to a review panel. The three-member review panel shall be selected from the pool of trained panel members as follows:

Respondent's Affiliation with the University	Composition of Review Panel
Faculty member	Three faculty members
Staff member (including executive employees)	Three staff members
Student	One faculty member, one staff member, one student

**5.10.8.1** Faculty members shall be selected for a term of service on the review panel pool by the Vice President of Academic Affairs or his/her designee and shall be approved by the President of Faculty Senate. Staff members shall be selected for a term of service by the Vice President of Planning, Budget, and Human Resources or his/her designee and shall be approved by the president of the Professional Association of Campus Employees (PACE). Student members shall be selected for a term service by the Dean of Students and shall be members of the Utah Valley University Student Association (UVUSA) and approved by the UVUSA President.

**5.10.9** The Title IX Coordinator or designated deputy coordinator shall select the members of the review panel from the panel pool and designate a review panel chair for each panel, based on availability and prior review panel experience. Review panel members must be in good standing with the University and must not have any conflicts of interest with serving on the review panel. The review panel shall consult with an attorney assigned by the Office of General Counsel to advise the review panel regarding legal, procedural, policy, and other questions as needed during the review process.

**5.10.10** The scope of the review and the standard of review shall be limited to those stated in 5.10.2 and 5.10.3 above. Reviews are not trial-type adversarial hearings. The review panel shall have the opportunity to review the final investigation summary and the written request or opposition to review statements submitted by the parties. The parties may also submit written issues or questions to the panel for the panel's consideration.

**5.10.11** In addition, the review meeting is an opportunity for the parties to address the review panel in person about the issues being considered for review, based on the reasons and standards of review outlined in 5.10.2 and 5.10.3, including addressing information in the final



investigation summary, any supplemental statements submitted by the parties, and any written impact or mitigation statements. Each party will have the opportunity to be heard, to identify witnesses for the review panel's consideration, and to respond to any questions from the review panel. The parties may not directly question each other, the investigator(s), or any other witnesses, although they may proffer questions for the review panel, which may choose, at its discretion, to pose appropriate and relevant questions to the parties, the investigator(s), and/or any witnesses. The review panel shall determine the appropriateness and relevancy of any additional information and questions submitted and may exclude evidence deemed to be outside the scope of review, irrelevant, or duplicative. A typical review meeting may include brief opening remarks by the complainant and/or respondent, with follow-up questions posed by the review panel; information presented by the investigator(s) or witnesses deemed relevant by the review panel, with follow-up questions by the review panel of the investigator(s) or witnesses; and brief concluding remarks by the complainant and/or respondent. The review panel chair has the discretion to determine the specific review meeting format.

**5.10.12** Both the complainant and the respondent have the right to be present at the review meeting, with a support person where applicable. Either party may request alternative methods for participating in the meeting that do not require physical proximity to the other party, including participation through electronic means. This request must be submitted to the review panel chair at least two calendar days prior to the review meeting. If, despite being notified of the date, time, and location of the review meeting, either party is not in attendance, the review meeting may proceed and applicable sanctions may be recommended. Neither party is required to participate in the meeting for the meeting to proceed.

**5.10.13** The University reserves the right to modify the review process to protect the safety of all parties involved.

**5.10.14** Within three business days from the date the review meeting concludes, the following shall occur:

1) In cases where the review panel determines that (a) new evidence arose after the investigation concluded that could substantially impact the investigation findings and/or resolution or (b) the issue(s) brought forward by the contesting party raise substantial doubt that a procedural error occurred that substantially impacted the outcome of the investigation, the review panel may remand the investigation to the original investigator(s) with instructions for further investigation on the raised issue(s). In cases where the review panel determines that the original investigator(s) may have a conflict of interest, the review panel may request review by new investigator(s). The Title IX Coordinator, in consultation with an assigned attorney from the Office of General Counsel, will determine whether the assignment of new investigators is needed. If the Title IX Coordinator was one of the original investigators, an assigned attorney from the Office of General Counsel will decide. Once the investigator(s) provide that follow-up to the review panel, the review panel will promptly resume its review to determine if the questions have been adequately addressed. If substantial doubt remains, the panel may either ask the investigator(s)

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for additional follow-up or send a written notice to the executive university administrator (defined in 5.11.1), with a copy to the Title IX Coordinator, recommending alternative sanction(s) or remedies. If no substantial doubt remains that new evidence or a procedural error substantially impacted the outcome of the investigation, the panel will consider the issues raised in 5.10.14(2) below.

2) If the review panel decides that the sanction(s) imposed is/are substantially disproportionate to the severity of the violation, or that the non-disciplinary aspects of the resolution are not reasonably designed to correct the discriminatory effects on the complainant, and/or others who may have been affected, or to prevent recurrence or further discriminatory or otherwise inappropriate actions, the review panel chair will draft a letter to the executive university administrator, with a copy to the Title IX Coordinator, recommending alternate sanction(s) or other remedies and the reasons for said recommendation(s).

3) If the review panel finds no basis under the standards set forth in 5.10.2 that alternate conclusions, sanctions, or remedies should be recommended, the review panel chair will draft a letter to the executive university administrator, with a copy to the Title IX Coordinator, stating this and the reasons for said recommendation(s).

**5.10.15** Within two business days of receiving the written recommendation from the review panel, the Title IX Coordinator or designated deputy coordinator will send a notice to the complaint and respondent, simultaneously, outlining the review panel's recommendation(s).

### **5.11 Executive Review, Final Sanction, and Final Outcome Letter**

**5.11.1** The executive university administrator responsible for reviewing the recommendations from the review panel and determining the final sanction(s) and other remedies, if any, are as follows:



Respondent's Affiliation with the University	Executive University Administrator
Student	Dean of Students (or if the Dean of Students was the responsible university administrator who made the initial decision, the Vice President of Student Affairs)
Faculty member	Senior Vice President of Academic Affairs
Administration or staff member who is not an executive employee and does not report directly to a vice president	Vice president of the department in which the respondent is employed (or the vice president's designee)
Executive employee or direct report of a vice president	University President
Vice president or other direct report of the University President	University President

**5.11.2** Upon receipt of written notice from the review panel, the appropriate executive university administrator shall promptly review all of the information that was available to the review panel and then decide whether to affirm the responsible university administrator's original decision, to adopt the recommendation(s) of the review panel, and/or to determine an alternative outcome. In determining the appropriate sanction(s) and other remedies, the executive university administrator should be guided by the considerations in 5.9.1 and will consult with other administrators as needed, including an attorney assigned by the Office of General Counsel, Human Resources, the Title IX Coordinator, and the Office of Academic Affairs, to ensure that any sanctions and/or remedies are appropriate to end the prohibited conduct, prevent further violation of this policy, and remedy the effects of any violation. Remedies may include offering remedies to the complainant and/or university community, implementing changes in programs and activities, providing training, and the imposition of any disciplinary sanctions, based on the investigative findings.

**5.11.3** Any sanction or combination of sanctions imposed upon a respondent will be documented in the respondent's personnel and/or student file. Nothing in these procedures prevents the executive university administrator from imposing disciplinary action against a respondent when the final investigation summary demonstrates that the respondent engaged in other conduct prohibited by the University, regardless of whether the respondent has been found responsible for violating this policy.

**5.11.4** The executive university administrator will notify the Title IX Coordinator in writing of his or her decision, which should include the following information: whether the responsible university administrator's sanctions were affirmed or modified and whether the review panel's

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recommendations were adopted, and the rationale for these decisions; any sanction(s) imposed against the respondent and the rationale for this decision; and any other remedial actions to be implemented for the complainant, respondent, and/or community.

**5.11.5** Within two business days of receiving the executive university administrator's decision, the Title IX Coordinator shall notify the complainant and respondent, simultaneously, in writing of the final outcome of the investigation and the rationale for the outcome. The final outcome letter shall include the name of the respondent; the violations of policy for which the respondent was found responsible or not responsible, as supported by the rationale set forth in the final investigation summary and/or modified by the executive university administrator; and whether the imposed sanction(s) (if applicable) have changed. The final outcome letter may also identify protective measures implemented with respect to the respondent or the university community. The final outcome letter will not disclose any remedial measures provided to the complainant. Any such remedial measures will be shared shortly thereafter with the complainant. The final outcome letter shall also state that the decision is final and not subject to further university review or grievance and include options for seeking other remedies outside of the University, such as with the federal Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD), which investigate complaints of unlawful discrimination and/or harassment in employment, or the US Department of Education Office for Civil Rights (OCR), which investigates complaints of unlawful discrimination, harassment, and/or sexual misconduct in employment and educational programs or activities.

**5.11.6** The review process shall be completed and the final outcome letter from the Title IX Coordinator shall be sent no later than 90 calendar days after the Title IX Coordinator or designated deputy coordinator made a determination that an investigation is warranted. If this deadline must be delayed due to exigent factors, such as the discovery of new evidence requiring additional review or the unavailability of witnesses, the Title IX Coordinator or designated deputy coordinator shall notify the parties of the anticipated length of the delay in writing. The length of the delay shall be determined on a case-by-case basis, depending on the extenuating circumstances involved.

**5.11.7** Once the final outcome letter is issued to the parties, no further internal reviews, appeals, or grievances are available to the parties. Nothing in this policy abrogates the rights of the parties to seek other remedies under state or federal law, such as with the federal Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD). A waiver to the finality of the decision may be sought from the executive university administrator asking the administrator to review the final decision. Such a waiver may be granted only in very limited exceptions when new evidence could be obtained only after the review process was concluded, such as through a law enforcement investigation subpoena. If granted, the review would be limited only to the impact the new evidence has on the decision and would be subject to the same procedure outlined in this policy.



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**5.11.8** The final outcome letter shall be used by the Title IX Coordinator for data collection and compliance purposes only. The review panel, responsible university administrator, and executive university administrator shall provide all documents related to confidential record reviews to the Title IX Coordinator for confidential storage and shall not keep any written or electronic copies of such documents.

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<b>POLICY TITLE</b>	<i>Sexual Violence in the Workplace and the Academic Environment</i>	<b>Policy Number</b>	162
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	September 15, 2014
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

## 1.0 PURPOSE

**1.1** Utah Valley University is committed to the security and safety of its students, faculty, staff, and visitors on campus. Reflective of this commitment, this policy establishes campus safety and security requirements in compliance with the *Campus Sexual Violence Elimination Act (SaVE)*. The policy outlines the procedures the University will follow once an incident of dating/domestic violence, sexual assault, and/or stalking has been reported, and other safety and security procedures required by law.

## 2.0 REFERENCES

**2.1** *Campus Sexual Violence Elimination Act (SaVE)*—reauthorization of *Violence against Women Act 2013*

**2.2** *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*

**2.3** *Title IV of the Civil Rights Act of 1964*

**2.4** *Title IX of the Higher Education Amendments of 1972*

**2.5** *Utah Code 77-36 Cohabitant Abuse Procedures Act*

**2.6** *Utah Code 77-38 Rights of Crime Victims Act*

**2.7** *Utah Code 78B-1-137 Witnesses—Privileged Communications*

**2.8** *UVU Policy 154 Workplace Violence*

**2.9** *UVU Policy 155 Sexual Harassment and Consensual Relationships and Grievance*

**2.10** *UVU Policy 371 Corrective Actions and Termination for Staff Employees*

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~~2.11 UVU Policy 541 Student Rights and Responsibilities Code~~

~~2.12 UVU Policy 648 Faculty Personnel Reduction (Interim Policy)~~

### 3.0 DEFINITIONS

~~**3.1 Campus Security Authority (CSA):** Individuals serving in University positions that are identified by the Vice President of Finance and Administration as having significant responsibility for student and campus activities, regardless of whether they are employees of the University. Examples of campus security authorities include, but are not limited to~~

- ~~1) A dean of students who oversees a student center and/or student extracurricular activities.~~
- ~~2) A director of athletics, a team coach, or a faculty advisor to a student group.~~
- ~~3) A student resident advisor or assistant advisor.~~
- ~~4) A physician in a campus health center, a counselor in a campus counseling center, or a victim advocate or sexual assault response team member.~~

~~**3.2 Consent:** Consent must be informed, freely given, and mutual. If coercion, intimidation, threats, and/or physical force is used, there is no consent. If a person is a minor and/or is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.~~

~~**3.3 Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: a) the length of the relationship, b) the type of relationship, and c) the frequency of interaction between the persons involved in the relationship.~~

~~**3.4 Domestic Violence:** Violence committed by a) a current or former spouse or intimate partner of the victim, b) a person with whom the victim shares a child in common, c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or e) any other person against an adult or youth~~



victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

**3.5 Preponderance of Evidence:** A party has shown that its version of facts, causes, damages, or fault is more likely than not the correct version.

**3.6 Retaliation:** An action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. An action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

**3.7 Sexual Assault:** An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation, including actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to involvement in any sexual contact when the victim is unable to consent; intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast); sexual intercourse without consent, including acts commonly referred to as rape, statutory rape, or incest.

**3.8 Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

## 4.0 POLICY

**4.1** Utah Valley University prohibits all forms of dating/domestic violence, sexual assault, and stalking and provides support and reporting mechanisms for students, faculty, staff, and visitors to campus.

**4.2** UVU strongly encourages individuals to report sexual assault, dating/domestic violence, and/or stalking to appropriate University officials because such reporting is necessary so that action can be taken against a violator of this policy. Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this

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policy: for example, off-campus actions that have continuing effects and create a hostile environment on campus. Allegations of off-campus sexual misconduct should be reported.

~~4.2.1 If a student is accused, the allegation should be reported to the Director of Student Conduct and Conflict Resolution.~~

~~4.2.2 If an employee is accused, the allegation should be reported to the Associate Vice President of Human Resources/Equity Officer. Reports of misconduct by University employees can be made anonymously through Ethics Point hotline via phone or web.~~

~~4.3 University employees cannot guarantee confidentiality, except when the reports are privileged communications as defined by law, such as with counselors or healthcare professionals. If a victim requests confidentiality, the University must take all reasonable steps to investigate and respond consistently with that request, taking into account that confidentiality may not be possible in every case, given the University's responsibility to provide a safe environment for all.~~

~~4.3.1 Employees who are statutorily prohibited from reporting incidents, including licensed health care professionals are exempt from reporting requirements.~~

~~4.4 Any university employee or student who receives a report of a dating/domestic violence, sexual assault, or stalking incident shall adhere to following:~~

~~4.4.1 If the incident involved a minor, the incident SHALL be immediately reported to UVU Police or the local police department. University employees aware of these incidents must notify their supervisor of the reporting being made to the police.~~

~~4.4.2 If the incident did not involve a minor, the University encourages employees or students to advise the victim/survivor to report the incident promptly to the police, while recognizing the victim/survivor has the right to or not to notify or seek assistance from law enforcement.~~

~~4.4.3 Employees or students should encourage the victim/survivor to contact victim services (see section 4.2).~~

~~4.4.4 Within 24 hours, employees or staff should report information they have about alleged or possible incidents to the appropriate university officer (see section 5.3).~~

~~4.5 As part of the Clery Act reporting requirements, all UVU faculty and staff must report the fact of a report of dating/domestic violence, sexual assault, and stalking to UVU Police.~~

~~4.6 Individuals, who in good faith report violent incidents or present evidence in an investigation, are protected from any retaliatory actions. Individuals who engage in retaliation are subject to disciplinary action.~~

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~~4.7 The University strongly encourages students to report instances of dating/domestic violence, sexual assault, and stalking involving students. Therefore, students who report information about these instances will not be disciplined by the University for any violation of the University's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.~~

~~4.8 In the event that a situation arises on campus or in an area surrounding campus, that, in the judgment of the Chief of UVU Police or his or her designee, constitutes a serious or continuing threat to students, employees or the greater university community, a university-wide timely warning will be issued through UVU's emergency communications systems.~~

## 5.0 PROCEDURES

~~5.1 Any individual who has been a victim of dating/domestic violence, sexual assault, and/or stalking is strongly encouraged to contact UVU Police or other campus security authority. These individuals can assist in making contact with the appropriate law enforcement agency.~~

~~5.2 Victims/survivors are encouraged to contact Student Health Services (students), Employee Assistance Program (benefits-eligible employees), and/or local victims/survivor service offices, counseling, and healthcare services. These services, provided by the University or the community, are strictly confidential.~~

~~5.3 Once an incident of dating/domestic violence, sexual assault, or stalking has been reported, the appropriate university officer (see sections 4.2.1 and 4.2.2) shall provide a prompt, fair, and impartial investigation and resolution, using the preponderance of evidence standard.~~

~~5.3.1 The appropriate university officer shall~~

~~1) Ensure that proceedings and investigations are conducted by university employees who are current in their required annual training in sexual violence investigations and hearing processes. In many cases, the police may be involved in and/or conduct the investigation.~~

~~2) Respond promptly to the allegations by immediately initiating an investigation and proceedings, and recommending appropriate disciplinary action, up to and including expulsion (students) and termination (employees) in accordance with Policy 541 (students), Policy 648 (faculty), or Policy 371 (staff).~~

~~3) If the victim requests changes in academic, working, transportation, and/or living situations (as applicable) that are reasonably available, make recommendations to appropriate university administrators, pending the outcome of institutional proceedings. The University shall honor judicial no-contact, restraining, and protective orders.~~



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~~4) Proceed independently of any action taken in the criminal or civil courts, as determined on a case-by-case basis. Criminal court proceedings are not a substitute for University policy/procedures.~~

~~5) Ensure the accuser and the accused receive the same opportunity to have others present during the institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.~~

~~6) Inform both the accuser and the accused that they shall be simultaneously informed in writing of the outcome of the institutional disciplinary proceeding; the University's procedures for the accused and the victim to appeal the results; any change in the results that occurs prior to the time the results become final; and when results become final.~~

~~7) Make appropriate reports for the purposes of Clery Act statistics.~~

~~5.4 In compliance with the Clery Act, reports from campus security authorities are used by the University to fulfill its responsibility to annually disclose Clery crime statistics.~~

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Proposed Policy Number and Title: 155 Sexual Harassment and Consensual Relationships and Grievance		
Existing Policy Number and Title: 155 Sexual Harassment and Consensual Relationships and Grievance		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input type="checkbox"/> Revision	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input checked="" type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
Bundled with Policy 162.	Anticipated Expiration Date:	

\*See UVU Policy #101 *Policy Governing Policies* for process details.

<b>Draft Number and Date:</b> Stage 4, March 24, 2016, Deletion, Regular Process		
<b>President's Council Sponsor:</b>	Linda Makin	<b>Ext.</b> _____
<b>Policy Steward:</b>		<b>Ext.</b> _____

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>08/27/2015</u></p> <p><b>University Entities Review</b> Entrance Date: <u>08/27/2015</u></p> <p><b>University Community Review</b> Entrance Date: <u>03/24/2016</u> Open Feedback: <u>03/24/2016</u> Close Feedback: <u>04/25/2016</u></p> <p><b>Board of Trustees Review</b> Entrance Date: <u>05/26/2016</u> Approval Date: <u>MM/DD/YYYY</u></p>	<p style="text-align: center;"><b>POST APPROVAL PROCESS</b></p> <p>Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b></p> <p><b>Name:</b> _____</p> <p><b>Date posted and verified:</b> <u>MM/DD/YYYY</u></p>

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<b>POLICY TITLE</b>	Sexual Harassment and Consensual Relationships and Grievance	<b>Policy Number</b>	155
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	June 14, 1993
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	June 14, 1993
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

### 1.0 PURPOSE

### 2.0 REFERENCES

**2.1** *Civil Rights Act of 1964, Title VII*

### 3.0 DEFINITIONS

**3.1 Faculty or faculty member:** Those who teach at the institution, and include adjunct faculty with teaching responsibilities and other instructional personnel.

### 4.0 POLICY

**4.1** This policy reflects the University's strong commitment to creating and maintaining an environment free from sexual harassment.

#### **4.2 Sexual Harassment**

##### **4.2.1 Rationale**

**4.2.1.1** Sexual harassment is reprehensible and will not be tolerated by the University. It subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty, and staff. Relationships involving sexual harassment or discrimination have no place within the University. In both obvious and subtle ways, the very possibility of sexual harassment is destructive to individual students, faculty, staff, and the academic community as a whole. When through fear of reprisal a student, staff member, or faculty member submits, or is pressured to submit, to unwanted sexual attention, the University's ability to carry out its mission is undermined.

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~~4.2.1.2 Sexual harassment is especially serious when it threatens relationships between teacher and student or supervisor and subordinate. In such situations, sexual harassment exploits unfairly the power inherent in a faculty member's or supervisor's position. Through grades, wage increases, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's, staff member's, or faculty member's career at the University and beyond.~~

~~4.2.1.3 While sexual harassment most often takes place in situations of a power differential between the persons involved, the University also recognizes that sexual harassment may occur between persons of the same University status. The University will not tolerate behavior between or among members of the University community which creates an unacceptable working or educational environment.~~

#### ***4.2.2 Prohibited Acts***

~~4.2.2.1 No member of the University community shall engage in sexual harassment. For the purposes of this policy, sexual harassment is defined as unwelcome advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when:~~

- ~~1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;~~
- ~~2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or~~
- ~~3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or of creating an intimidating, hostile, or offensive environment for work or learning.~~

#### ***4.2.3 Examples of Sexual Harassment***

~~4.2.3.1 Sexual harassment encompasses any sexual attention that is unwanted. Examples of the verbal or physical conduct prohibited by the "Prohibited Acts" section above include, but are not limited to:~~

- ~~1) Physical assault;~~
- ~~2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;~~
- ~~3) Direct propositions, verbal and/or written, of a sexual nature;~~
- ~~4) Subtle pressure for sexual activity.~~



~~4.2.3.2 A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following:~~

- ~~1) Comments of a sexual nature; or~~
- ~~2) Sexually explicit statements, questions, jokes, or anecdotes.~~

~~4.2.3 A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct is directed that includes one or more of the following:~~

- ~~1) Unnecessary touching, patting, hugging, or brushing against a person's body;~~
- ~~2) Remarks of a sexual nature about a person's clothing or body; or~~
- ~~3) Remarks about sexual activity or speculations about previous sexual experience.~~

#### ***4.2.4 Isolated and Inadvertent Offenses***

~~4.2.4.1 Members of the University community who, without establishing a pattern of doing so, engage in isolated conduct of the kind described above in section 4.2.3, "Examples of Sexual Harassment," or who exhibit a pattern of engaging in such conduct may fail to realize that their actions discomfort or humiliate and demonstrate insensitivity that necessitates remedial measures. When university administrators become aware that such activities are occurring in their areas, they shall direct that those engaged in such conduct undertake an educational program designed to help them understand the harm that they are doing.~~

~~4.2.4.2 If, after participating in the educational program or failing to participate after being directed to do so, a person continues to engage in the conduct previously described, he or she will be deemed to have engaged in a pattern of conduct intended to discomfort or humiliate the one at whom the actions or statements are directed.~~

### **4.3 Consensual Relationships**

#### ***4.3.1 Definition***

~~4.3.1.1 The terms faculty or faculty member can mean all those who teach at the institution, and include adjunct faculty with teaching responsibilities and other instructional personnel.~~

#### ***4.3.2 Rationale***

~~4.3.2.1 The University's educational mission is promoted by professionalism in faculty/student relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions~~

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~~of faculty members and students that harm this atmosphere undermine professionalism and hinder fulfillment of the University's educational mission. Trust and respect are diminished when those in positions of authority abuse, or appear to abuse, their power. Those who abuse, or appear to abuse, their power in such a context violate their duty to the University community.~~

~~**4.3.2.2** Faculty members exercise power over students, whether in giving them praise or criticism, evaluating them, making recommendations for their further studies or their future employment, or conferring any other benefits on them. Amorous relationships between faculty members and students are wrong when the faculty member has professional responsibility for the student. Such situations greatly increase the chances that the faculty member will abuse his or her power and sexually exploit the student. Voluntary consent by the student in such a relationship is suspect, given the fundamentally asymmetric nature of the relationship. Moreover, other students and faculty may be affected by such unprofessional behavior because it places the faculty member in a position to favor or advance one student's interest at the expense of others, and implicitly makes obtaining benefits contingent on amorous or sexual favors. Therefore, the University will view it as unethical if faculty members engage in amorous relations with students enrolled in their classes or subject to their supervision, even when both parties appear to have consented to the relationship.~~

#### **4.3.3 Consensual Relationships in the Instructional Context**

~~**4.3.3.1** No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose academic work (including work as a teaching assistant) is being supervised by the faculty member.~~

#### **4.3.4 Consensual Relationships Outside the Instructional Context**

~~**4.3.4.1** Amorous relationships between faculty members and students occurring outside the instructional context may lead to difficulties. Particularly when the faculty member and student are in the same academic unit or in units that are academically allied, relationships that the parties view as consensual may appear to others to be exploitative. Further, in such situations (and others that cannot be anticipated), the faculty member may face serious conflicts of interest and should be careful to distance himself or herself from any decisions that may reward or penalize the student involved. A faculty member who fails to withdraw from participation in activities or decisions that may reward or penalize a student with whom the faculty member has or has had an amorous relationship will be deemed to have violated his or her ethical obligation to the student, to other students, to colleagues, and to the University.~~

#### **4.3.5 Filing of Complaint**

~~**4.2.5.1** A complaint alleging violations of section 4.3, "Consensual Relationships," may be filed by any person or the process may be initiated by the Equity Officer.~~



#### **4.4 Procedures**

##### **4.4.1 Informal Complaint**

~~4.4.1.1 At the complainant's option, a complaint that one or more provisions of this policy have been violated may be brought to any appropriate member of the University community.~~

~~4.4.1.2 The person to whom the complaint is brought will inform the complainant as to the options available under this policy and, at the complainant's request,~~

- ~~1) May help the complainant resolve the complaint informally and/or~~
- ~~2) Help the complainant draft a formal complaint if the complainant decides to follow that route.~~

~~4.4.1.3 The person to whom the informal complaint is brought shall not inform the accused of the complainant's action without the consent of the complainant.~~

##### **4.4.2 Investigation Prior to Formal Action**

~~4.4.2.1 A complainant wishing to make a formal complaint and have it pursued should file it with the Equity Officer, who will consult with the appropriate administrative officer to determine the method by which the investigation will be conducted.~~

~~4.4.2.2 The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. In conducting the investigation, the appropriate administrator may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times, the administrator conducting the investigation will take steps to ensure confidentiality.~~

~~4.4.2.3 The investigation will afford the accused a full opportunity to respond to the allegations.~~

~~4.4.2.4 Possible outcomes of the investigation are:~~

- ~~1) A judgment that the allegations are not warranted;~~
- ~~2) A negotiated settlement of the complaint; or~~
- ~~3) Institution of formal action described in succeeding sections of this policy.~~

##### **4.4.3 Process of Taking Formal Action**

~~4.4.3.1 If, after reviewing the report of the investigator, the appropriate administrative official, as described previously in the section, concludes that there is a reasonable basis for believing that~~

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~~the alleged violation of this policy has occurred and a negotiated settlement cannot be reached, formal action will be taken.~~

#### **~~4.4.3.2~~** The decision to take formal action in cases which:

- ~~1) A faculty member, adjunct faculty, or other instructional personnel has been charged, will be made by the Senior Vice President for Academic Affairs, or that person's designee;~~
- ~~2) A staff member has been charged, will be made by the vice president responsible for the department employing the person charged, or that person's designee.~~

#### **4.4.4 Formal Action**

**~~4.4.4.1~~** Except as specifically modified by other provisions of this policy, formal action involving allegations of:

- ~~1) Violations of this policy by faculty members will be governed by university Grievance Procedures. Upon motion from one of the parties, made before the start of the hearing process, the hearing panel shall close all or part of any hearing held under this policy. Upon motion from one of the parties after the hearing has started or from some other interested party, the hearing panel may close all or part of a hearing held under this procedure.~~
- ~~2) Violations of this policy by staff members will be taken by the vice president (or designee) responsible for the department employing the accused staff member. Appeals of any formal disciplinary action against a staff member are governed by college grievance procedures.~~

#### ***4.4.5 Protection of Complainant and Others***

**~~4.4.5.1~~** Investigations of complaints will be initiated only with the complainant's consent. The complainant will be informed fully of steps taken during the investigation.

**~~4.4.5.2~~** All responsible action will be taken to assure that the complainant and those testifying on behalf of the complainant or supporting the complainant in other ways will suffer no retaliation as the result of his or her activities in regard to the process. Steps to avoid retaliation might include:

- ~~1) Lateral transfers to one or more of the parties in an employment setting, and a comparable move if a classroom setting is involved, and~~
- ~~2) Arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the accused.~~

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~~4.4.5.3 In extraordinary circumstances, after consulting the Faculty Senate President, the Senior Vice President for Academic Affairs may, at any time during or after an investigation of a sexual harassment/consensual relationship complaint, suspend from teaching responsibilities any faculty member or teaching assistant accused of sexual harassment if, after reviewing the allegations and interviewing the accused, the complainant, and, if it seems appropriate, some others enrolled in the class, the Senior Vice President finds that it is reasonably certain that,~~

- ~~1) The alleged sexual harassment has occurred, and~~
- ~~2) Serious and immediate harm will ensue if the person continues to teach the class.~~

#### ***4.4.6 Protection of the Accused***

~~4.4.6.1 At the time the investigation commences, the accused will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations.~~

~~4.4.6.2 In the event that the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the accused if it has been damaged by the proceeding.~~

~~4.4.6.3 A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to expulsion and/or termination by the University.~~

#### ***4.4.7 Protecting Both Parties***

~~4.4.7.1 To the extent possible, the proceedings will be conducted in a way calculated to protect the confidentiality interests of both parties.~~

~~4.4.7.2 After the investigation, the parties will be informed of the facts developed in the course of the investigation.~~

~~4.4.7.3 The parties will be informed promptly about the outcome of the proceedings.~~

### **4.5 Educational Programs**

#### ***4.5.1 Education as a Key Element of University Policy***

~~4.5.1.1 Educational efforts are essential to the establishment of a campus milieu that is as free as possible of sexual harassment and in which high standards of conduct in consensual relationships are observed. There are at least four goals to be achieved through education:~~

- ~~1) Ensuring that all victims (and potential victims) are aware of their rights;~~
- ~~2) Notifying individuals of conduct that is proscribed;~~

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3) Informing administrators about the proper way to address complaints of violations of this policy; and

4) Helping educate the insensitive about the problems this policy addresses.

#### ***4.5.2 Preparation and Dissemination of Information***

***4.5.2.1*** The Equity Officer is charged with distributing copies of this policy to all current members of the University community and to all those who join the community in the future. An annual letter from the Equity Officer will be sent to all faculty and staff to remind them of the contents of UVU Policy 301 *Equal Employment, Education Opportunity, and Affirmative Action*, including the provisions added to it by this policy. A copy of UVU Policy 301 (including this policy) will be included in student orientation materials. In addition, copies of this policy will be made continually available at appropriate campus centers and offices.

***4.5.2.2*** The Equity Officer will develop a series of training sessions for persons who are likely to receive complaints that this policy has been violated, including, but not being limited to, such persons as department heads, deans, directors, academic advisors, coordinators, and supervisors. Academic departments shall provide training sessions for adjunct faculty and other instructional personnel.

***4.5.2.3*** The Equity Officer will develop a course designed to inform those who inadvertently violate this policy of the problems that they create by their insensitive conduct. The course shall be mandated for those in violation of this policy and may be an element in the settlement of a complaint. It also may be mandated for persons found to have violated this policy. (The following document outlines the detailed procedures to be followed, and is published by Human Resources for the processing of sexual harassment complaints.)

#### ***4.6 Sexual Harassment Complaint Procedures***

##### ***4.6.1 Preamble***

***4.6.1.1*** UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*, enacted in 1993, reflects the University's strong commitment to creating and maintaining an environment free of sexual harassment. The presence of sexual harassment in this community subverts the mission of the University and will not be tolerated. In furtherance of this commitment, the institution recognizes the need to codify procedures governing sexual harassment complaints filed under the policy. The distribution of such procedures will ensure that those persons involved in sexual harassment complaints know what to expect from the complaint process. The University is particularly concerned that potential complainants know that they have recourse in this community. To these ends, the Department of Personnel Services publishes this set of university-wide procedural guidelines for the processing of sexual

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~~harassment complaints so that the person handling such complaints at the administrative level, as well as the parties to the complaint, are aware of the process. These procedures are based upon UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*. We believe that publication and implementation of these procedures will go a long way toward increasing awareness of sexual harassment and eradicating it.~~

#### **~~4.7 Utah Valley University Policy on Sexual Harassment and Consensual Relationships~~**

~~4.7.1 Utah Valley University believes that sexual harassment is reprehensible and will not be tolerated. Furthermore, sexual harassment is a form of sex discrimination under Title VII of the *Civil Rights Act of 1964*, and as such, is illegal under federal law.~~

~~4.7.2 The University has a policy prohibiting sexual harassment and vigorously enforces it. Persons who are accused of sexual harassment should thoroughly read and understand the policy. UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* is set forth in the University's Employee Handbook. Copies of the policy, as well as copies of these procedures, are available upon request from Human Resources.~~

#### **~~4.8 Prohibited Conduct~~**

##### **~~4.8.1 Sexual Harassment Defined~~**

~~4.8.1.1 The University's policy defines sexual harassment as unwelcome advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when:~~

- ~~1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;~~
- ~~2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or~~
- ~~3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive environment for work or learning.~~

##### **~~4.8.2 Examples of Sexual Harassment~~**

~~4.8.2.1 Sexual harassment may take many forms and includes any sexual attention that is unwanted. The following types of conduct are given as examples of sexual harassment in the policy:~~

- ~~1) Physical assault;~~

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~~2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation.~~

~~3) Direct propositions, verbal and/or written, of a sexual nature;~~

~~4) Subtle pressure for sexual activity;~~

~~4.8.2.2 A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following:~~

~~1) Comments of a sexual nature; or~~

~~2) Sexually explicit statements, questions, jokes, or anecdotes.~~

~~4.8.2.3 A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following:~~

~~1) Unnecessary touching, patting, hugging, or brushing against a person's body;~~

~~2) Remarks of a sexual nature about person's clothing or body; or~~

~~3) Remarks about sexual activity or speculations about previous sexual experience.~~

#### **4.9 Parties**

~~4.9.1 Under UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*, any student, staff member, or faculty member may bring a sexual harassment complaint against any other member of the institution community who is believed to have violated the policy.~~

#### **4.10 Persons Authorized to Receive Complaints**

~~4.10.1 UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* provides that a complaint alleging a violation of the policy may be brought to any appropriate member of the University community, including:~~

~~1) Any academic or administrative officer of the University;~~

~~2) Any collegiate dean, director, coordinator, supervisor, department head, or advisor;~~

~~3) Department of Personnel Services.~~

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~~4.10.2 All persons authorized to receive complaints shall participate in training related to the procedures to be used for handling sexual harassment complaints. This training is provided by Human Resources.~~

#### **4.11 Available Options**

##### **4.11.1 Informal Resolution of the Complaint**

- ~~1) By the complainant directly with the accused party;~~
- ~~2) With the assistance of the person to whom the complaint was initially brought; or~~
- ~~3) With the assistance of any appropriate member of the institution community as set forth above to whom the complainant wishes the complaint to be referred, including the Equity Officer of the University.~~

##### **4.11.2 Filing a Formal Complaint with the Equity Officer**

~~4.11.2.1 The complainant should also be informed that a decision to proceed informally at this point does not preclude the filing of a formal complaint at some later point prior to the completion of the informal complaint process and that the filing of an informal complaint is not a prerequisite to a formal complaint.~~

#### **4.12 Procedures for Initial Intake of Complaints**

##### **4.12.1 Discussion of Relevant Considerations**

~~4.12.1.1 In addition to outlining for the complainant the options available under the sexual harassment policy, the person to whom the complaint is initially brought should also discuss with the complainant other relevant considerations such as:~~

- ~~1) The details of the complaint process;~~
- ~~2) The issues involved in the complaint;~~
- ~~3) Possible resolutions;~~
- ~~4) Provisions in the policy for protection of the complainant's interests (e.g., confidentiality; need for truthfulness by both parties; keeping complainant fully informed of steps taken during the process; protection of complainant and witnesses against retaliatory action; accused party cannot be informed of the filing of an informal complaint without the consent of complainant); and~~



~~5) Provisions in the policy for protection of the interests of the accused (e.g., confidentiality; need for truthfulness by both parties; right to be notified of existence of any formal complaint; opportunity to respond to the complainant's allegations). The person to whom the complaint is brought should provide the complaining party with a copy of UVU Policy 155 Sexual Harassment and Consensual Relationships and Grievance” and these procedures.~~

#### **4.12.2 Determination as to Further Action**

~~4.12.2.1 Once all of the above information has been discussed with the complainant, the complainant may then determine whether to pursue the complaint and, if so, by what process.~~

#### **4.13 Informal Complaints**

##### **4.13.1 Referral**

~~4.13.1.1 In the event the complainant wishes to pursue informal resolution of the complaint, he or she may do so either with the person to whom the complaint was initially brought or with another person authorized under the policy to receive such complaints and to whom the complainant wishes the complaint to be referred. The person selected by the complainant to process the complaint will follow the procedures set forth in the following subsection relating to processing informal complaints.~~

~~4.13.1.2 Similarly, if the complainant elects to file a formal complaint with the Equity Officer, or if the complainant wishes to convert an existing informal complaint to a formal complaint at any point prior to completion of the informal complaint process, the person to whom the complaint was initially brought will refer the complainant to Human Resources for that purpose. Any assistance the complainant may need in filing the complaint or in contacting Human Resources will be provided by the person making the referral.~~

##### **4.13.2 Procedures for Informal Complaints**

~~4.13.2.1 If the complainant wishes to pursue informal resolution of the complaint, the following procedures are applicable:~~

~~1) Notice of Complaint to Human Resources: Within seven (7) working days of receiving an informal complaint, the person pursuing the complaint with the complainant will notify the Equity Officer/Human Resources in writing of the existence of the complaint and will provide a summary of the allegations. Situations in which the complainant has requested his or her name not be disclosed or no action be taken, and those in which the complainant has not consented to informing the accused party of the action, should be reported without disclosing information which would identify the parties. The information reported will be treated confidentially by Human Resources. This information is required to be reported for data collection purposes and to assure compliance with the sexual harassment policy and with applicable federal law on sexual~~

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harassment. Additionally, Human Resources will use this information to monitor repeated complaints within the same department/unit or against the same individual, where appropriately identified, to assure that such claims are adequately handled.

*2) Notice to the Accused:* In the context of an informal complaint, the sexual harassment policy provides that the accused party will not be informed of the complainant's action without the consent of the complainant. For purposes of documentation, this consent should be provided in writing. The complainant should be informed that no disciplinary action can be taken against the accused on the basis of an informal complaint of which the accused party has not been made aware.

*3) Inquiry/Investigation into Circumstances of Complaint:* The person handling the informal complaint should follow the procedures for investigation of formal complaints set forth in section 4.14.2.4 of this set of procedures.

*4) Time Period for Investigating Complaint:* Informal complaints should be concluded within fifteen (15) days of their inception. Where this is not reasonably possible, the person processing the complaint should notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.

*5) Notice of Conclusion of Investigation:* Within seven (7) working days of concluding the investigation of an informal complaint, the person handling the complaint will notify the Human Resources in writing that the complaint has been concluded and the resulting outcome. All papers, notes, etc. shall be forwarded to the Equity Officer in a sealed envelope for classification and storage.

*6) Possible Actions upon Conclusion of Informal Investigation:*

**a) Resolution of Complaint:** The person handling the complaint will attempt to resolve it to the satisfaction of the parties involved.

**b) Where Resolution of Complaint is Not Possible:** Where the person handling the complaint is unable to resolve it, the complainant should be advised of the option of filing a formal complaint based on the same occurrence with the Equity Officer and the existence of options outside the University that may be pursued, i.e., filing with the Federal Equal Employment Opportunity Commission, the Federal Department of Education (Office of Civil Rights), etc.

## 4.14 Formal Complaints

### 4.14.1 Referral to Human Resources

**4.14.1.1** Either when the complainant elects to file a formal complaint, or at any point prior to completion of the informal complaint process when a complainant elects to convert an existing

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~~informal complaint to a formal complaint, the complainant may invoke the procedures used in the formal context. If this occurs, the person handling the complaint should refer the complainant to the Equity Officer for filing of the formal complaint. Any assistance that the complainant may need in contacting the Equity Officer or in filing the complaint should be provided by the person making the referral.~~

#### **4.14.2 Procedures For Formal Complaints**

~~**4.14.2.1 Filing with the Equity Officer:** The sexual harassment policy provides that formal complaints of sexual harassment will be filed in writing with the Equity Officer.~~

~~**4.14.2.2 Determination of Method of Formal Investigation:** The Equity Officer will then consult with the appropriate administrative officer to determine the method by which the formal investigation will be conducted. The Equity Officer will be responsible for the investigation with the assistance of the department or office involved and will keep the administrative officer informed as to its progress.~~

~~**4.14.2.3 Notice to the Accused:** At the commencement of the investigation of a formal complaint, the accused party will be informed of the identity of the complainant, of the allegations of the complaint, and of the facts surrounding the allegations of sexual harassment, as required by section 4.6 of the policy.~~

#### **4.14.2.4 Investigation of Formal Complaint**

~~**4.14.2.4.1 Purpose of Investigation:** The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation(s) of the sexual harassment policy has/have occurred.~~

~~**4.14.2.4.2 Authorization to Investigate:** Because the information provided by the complainant is confidential, it is necessary to obtain the complainant's written authorization to discuss the information with others during the course of the investigation. The written documentation of the complainant's consent to investigate should specify that the investigator is authorized to discuss the information provided with other persons having pertinent factual knowledge of the circumstances of the complaint and authorized to collect and examine any and all records and other documentation relative to the complaint.~~

~~**4.14.2.4.3 Persons to Be Interviewed:** The persons conducting the investigation should interview the complainant, the accused, and any other persons believed to have pertinent factual knowledge of the allegations. UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* specifically provides that the accused be afforded a full opportunity to respond to the allegations. Throughout the investigation, and at all other times, the person conducting the investigation will take steps to preserve the confidentiality of all persons involved.~~

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**4.14.2.4.4 Matters to be investigated include:**

- 1) Whether the specific conduct constitutes sexual harassment, including the type(s) of conduct; frequency of occurrence; date(s) on which or time period over which the conduct has occurred; location of alleged occurrence(s); and all factual circumstances upon which the complaint is based.
- 2) The specific relationship of the accused party to the complainant (e.g., professor-student, supervisor-employee, etc.).
- 3) The effect of the accused party's conduct on the complainant, including any consequences that may be attributed to the conduct.
- 4) Whether the accused party is aware of the complainant's concerns.
- 5) Whether the department head or supervisor is aware of the complainant's concerns.
- 6) The names, addresses, and telephone numbers of all persons believed to have pertinent factual knowledge of the circumstances surrounding the complaint.
- 7) Whether any prior steps were taken to resolve the complaint.
- 8) Whether there are any additional resources that may be helpful to resolve the complaint.
- 9) Whether the complainant is receiving appropriate emotional support and/or services.

***4.14.3 Possible Outcomes of Investigation***

**4.14.3.1** The possible outcomes of the investigation are:

- 1) A finding that there is a reasonable basis for believing that the alleged violation occurred; or
- 2) A finding that there is no reasonable basis for believing that the alleged violation occurred; or
- 3) A negotiated settlement of the complaint.

**4.14.3.2** Where the Equity Officer has determined that the allegations are founded, there are two further possibilities:

- 1) A negotiated settlement of the complaint or



~~2) Where a negotiated settlement is not possible, institution of formal action/sanctions as described in section 4.15.7 below.~~

~~**4.14.4 Time Period for Investigating Complaint:** Investigations of formal complaints should be concluded within forty five (45) days of their inception. Where it is not reasonably possible to conclude the complaint within that amount of time, the Equity Officer will notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.~~

~~**4.14.5 Written Report of Findings:** Upon conclusion of the investigation of a formal complaint, the Equity Officer will prepare a written summary of the findings. This report will then be provided to the appropriate administrative official as described in section 4.15.7.~~

~~**4.15.6 Notice to Parties:** At the conclusion of the investigation, the Equity Officer shall immediately inform both the complainant and the accused party of the outcome and of the facts developed relevant to the complaint. In the event that the investigation has revealed no reasonable basis for believing sexual harassment has occurred under the policy, the investigator will also advise the complainant of the existence of options outside the University that may be pursued as discussed in section 4.13 of these procedures.~~

#### **4.15.7 Formal Sanctions**

~~**4.15.7.1 Decision to Impose Sanctions:** If after a reviewing of the report from Human Resources, the appropriate administrative official (as described below) concludes that there is a reasonable basis for believing that the alleged violation of the policy has occurred, and if a negotiated settlement of the complaint has not been achieved, formal sanctions will be imposed.~~

~~**4.15.7.2 Persons Responsible for Decision:** The decision to impose formal sanctions will be made by one of the following persons:~~

- ~~1) In cases involving a faculty member (contract and/or adjunct) or other instructional personnel as the charged party, by the Senior Vice President for Academic Affairs or that person's designee; and~~
- ~~2) In cases involving a staff person as the charged party, by the vice president responsible for the department employing the charged party or by that person's designee; and~~
- ~~3) In cases involving a student, by the Vice President of Student Affairs or that person's designee.~~

~~**4.15.7.3 Sanctions:** Where an allegation of sexual harassment is founded, appropriate corrective measures may range from verbal reprimand up to and including separation of the offending party from the University in accordance with established university procedures.~~

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**4.15.7.4 Governing Provisions:** ~~Violations of UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* are governed by the grievance procedures of the University's policy and procedures.~~

**4.15.8 Final Report to the Equity Officer:** ~~Within seven (7) work days of the conclusion of any formal action, a written report summarizing any such action taken and the outcome of any appeal will be submitted to the Equity Officer by the administrative official responsible for the decision on formal action. This written report is used by the Equity Officer for data collection and compliance purposes only.~~

**4.15.9 Complainant's Options upon Unfavorable Resolution:** ~~Where the complainant is not satisfied with the outcome of the formal action process, the administrative official responsible for the decision on any formal action taken should inform the complainant of the existence of options outside the University that may be pursued as discussed in section 4.13 of these procedures.~~

#### **4.16 Presence of Support Persons**

**4.16.1** ~~If the complainant so desires, the complainant may be accompanied at the initial interview (and subsequently as appropriate) by a friend, family member, or other individual of the complainant's choice whose presence is necessary to provide emotional support and/or clarification of the facts related to the complaint.~~

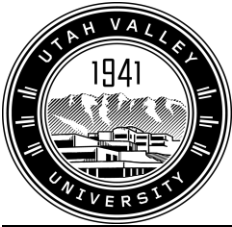
#### **4.17 Rights of the Accused**

**4.17.1** ~~At the commencement of the investigation of a formal complaint, the accused will be informed of the identity of the complainant, the allegations of the complaint, and the facts surrounding the allegations. The accused will be given an opportunity to respond fully to the allegations and will be notified of the outcome of the investigation.~~

#### **4.18 Confidentiality**

**4.18.1** ~~Human Resources treats as confidential all information received in connection with the filing, investigation, and resolution of complaints. It is anticipated and expected that the parties to a particular complaint will observe the same standard of strict confidentiality. It should be emphasized that this practice is in the best interests of all parties to the complaint. Failure to respect confidentiality may be regarded as retaliation.~~

### **5.0 PROCEDURES**



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POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

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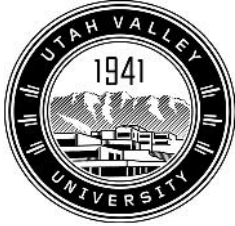
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Proposed Policy Number and Title: 407 Clery Act: Campus Safety and Security		
Existing Policy Number and Title: (Replaces temporary emergency policy.)		
<b>Approval Process*</b>		
X Regular	Temporary Emergency	Expedited
X New	New	New
Revision	Revision	Revision
Deletion	Suspension	
	Anticipated Expiration Date:	
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		
<b>Draft Number and Date:</b> <u>Stage 4, April 21, 2016</u> <b>President's Council Sponsor:</b> <u>Val Peterson</u> <b>Ext.</b> _____ <b>Policy Steward:</b> <u>John Brewer, Melissa Frost, Karen Clemes</u> <b>Ext.</b> _____		
<b>POLICY APPROVAL PROCESS DATES</b>		
<b>Policy Drafting and Revision</b> Entrance Date: <u>08/08/2013</u> <b>University Entities Review</b> Entrance Date: <u>09/10/2015</u> <b>University Community Review</b> Entrance Date: <u>03/10/2016</u> Open Feedback: <u>03/10/2016</u> Close Feedback: <u>04/11/2016</u> <b>Board of Trustees Review</b> Entrance Date: <u>04/21/2016</u> Approval Date: <u>MM/DD/YYYY</u>	<b>POST APPROVAL PROCESS</b> Verify: Policy Number Section Title BOT approval Approval date Effective date Proper format of Policy Manual posting TOPS Pipeline and Archives update  <b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b> <b>Name:</b> _____ <b>Date posted and verified:</b> <u>MM/DD/YYYY</u>	

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<b>POLICY TITLE</b>	Clery Act: Campus Safety and Security	<b>Policy Number</b>	407
<b>Section</b>	Facilities, Operations, and Information Technology	<b>Approval Date</b>	
<b>Subsection</b>	Safety, Security, and Vehicles	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Vice President of Finance and Administration		

### 1.0 PURPOSE

**1.1** In compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998* (the “Clery Act”), the purpose of this policy is to assist in creating a safe and secure environment for students, faculty, staff, and campus visitors and to provide guidance to all members of the University community regarding Clery Act requirements.

### 2.0 REFERENCES

**2.1** *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998* (the “Clery Act”) (20 USC § 1092(f))

**2.2** *Crime Definitions in Accordance with the Federal Bureau of Investigations Crime Reporting Program* (34 CFR § 668)

**2.3** Utah Code Ann. § 76-5-406

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**2.5** Utah Code Ann. § 77-36-1

**2.6** Utah Code Ann. § 76-9-702.1

**2.7** Utah Code Ann. § 76-5-106

**2.8** UVU Policy 115 *Minors on Campus and at University-Sponsored Events*

**2.9** UVU Policy 154 *Workplace Violence*

**2.10** UVU Policy 162 *Sexual Misconduct*

**2.11** UVU Policy 324 *Drug-free Workplace*

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### 3.0 DEFINITIONS

**3.1 Alcohol law violations:** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**3.2 Annual Security Report (ASR):** The annual report of crime statistics and other campus information that must be prepared and distributed in accordance with the *Clery Act*.

**3.3 Campus Security Authority (CSA):** Individuals serving in positions identified by the Vice President of Finance and Administration that have significant responsibility for student and campus activities. These individuals may not always be university employees. CSAs include but are not limited to:

- 1) Members of UVU Police;
- 2) Any individual responsible for security who is not a member of UVU Police (for example, individuals responsible for monitoring entrances to buildings or specified areas are responsible for security even on a temporary basis); and
- 3) Any university official who has significant responsibility for student and campus activities, including but not limited to administrators, student resident leaders and assistant leaders, student and employee discipline and campus judicial proceedings, athletics administration and coaches and coaching staff, faculty or staff who lead or supervise travel groups, and academic advisors and advisors to recognized student organizations.

**3.4 Clery Act crimes:** Information about any incident that may constitute any of the following crimes must be reported by CSAs to UVU Police, and the University is required to maintain statistics of these crimes for its ASR:

- 1) Murder/non-negligent manslaughter, negligent manslaughter, sexual assault offenses (forcible and non-forcible), domestic violence, dating violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes: Any of the above mentioned offenses, and any incidents of larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by bias based on race, ethnicity, national origin, religion, sex/gender, sexual orientation, gender identity, or disability; and
- 3) Arrests and referrals for disciplinary action for weapons (carrying, possessing, etc.), drug abuse violations, and alcohol law violations.



**3.5 Clery geography:** Any location on which the University is required to report crime statistics for purposes of the *Clery Act*, including:

1) Campus property: Any building or property owned or controlled by the University within the same reasonably contiguous geographic area of the University and used by the University in direct support of, or in a manner related to, the University's educational purposes, including any building or property within the same reasonably contiguous geographic area of the University that is owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor);

2) Non-campus building or property: Any building or property owned or controlled by an officially sponsored student organization recognized by the University and any building or property (other than a branch campus) owned or controlled by the University that is frequently used in direct support of, or in relation to, the University's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the University; and

3) Public property within or immediately adjacent to the campus: The term "public property" means all public property that is within the same reasonably contiguous geographic area of the University, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the University if the facility is used by the University in direct support of, or in a manner related to, the University's educational purposes.

**3.6 Daily crime log:** A daily record maintained by UVU Police that records all reported alleged criminal activity in accordance with the *Clery Act*.

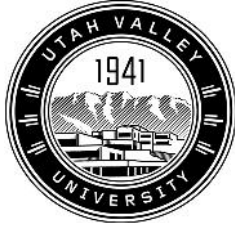
**3.7 Dating violence:**

1) As defined in the *Clery Act*, dating violence means violence committed by a person who is or has been in a relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the reporting party's statement and with consideration of the length of the relationship, type of relationship, and frequency of interaction between the parties. It includes, but is not limited, to sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against his or her dating partner; or any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against his or her dating partner. "Dating partner" means a person who: (a) is an emancipated person as defined by Utah statute; or (b) is 18 years of age or older; and is, or has been, in a dating relationship with the other party. "Dating partner" does not include an intimate

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partner, as defined in federal law (18 U.S.C. § 921). "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship that has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy. "Dating relationship" does not mean casual fraternization in a business, educational, or social context. In determining, based on a totality of the circumstances, whether a dating relationship exists, all relevant factors shall be considered, including: (a) whether the parties developed interpersonal bonding above a mere casual fraternization; (b) the length of the parties' relationship; (c) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship; (d) the ongoing expectations of the parties, individual or jointly, with respect to the relationship; (e) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and (f) whether other reasons exist that support or detract from a finding that a dating relationship exists. It is not necessary that all, or a particular number, of the factors described herein are found to support the existence of a dating relationship. (Utah Code Ann. § 78B-7-402.)

### 3.8 Domestic violence:

1) As defined in the *Clery Act*, domestic violence means felony or misdemeanor crimes of violence committed (a) by a current or former spouse or intimate partner of the victim; (b) by a person with whom the victim shares a child in common; (c) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (d) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" also means commission or attempt to commit, any of the following offenses by one cohabitant against another: aggravated assault, assault, criminal homicide, harassment, electronic communication harassment, kidnapping, child kidnapping, or aggravated kidnapping, mayhem, sexual offenses, stalking, unlawful detention, violation of protective order, any offense against property, possession of a deadly weapon with intent to assault, discharge of a firearm. (Utah Code Ann. § 77-36-1(4).)

**3.9 Drug abuse violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance is also a drug abuse

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violation. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs are also violations.

### 3.10 Sexual assault:

1) As defined in the *Clery Act*, sexual assault is an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation, including forcible or non-forcible sex offense or actual or attempted sexual contact with another person without that person's consent. Sexual assault includes but is not limited to involvement in any sexual contact when the victim is unable to consent or intentional and unwelcome touching, however slight, of any body part or object, by any person upon another person, that is without consent and/or by force or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast). Sexual intercourse without consent includes acts commonly referred to as rape, statutory rape, or incest. Intercourse includes vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth-to-genital contact or genital-to-mouth contact) no matter how slight the penetration or contact. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, a person is guilty of rape if that person has sexual intercourse with the victim without the victim's consent. (Utah Code Ann. § 76-5-402.) A person is guilty of object rape if the actor, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person. (Utah Code Ann. § 76-5-40276-5-402.2.) A person is guilty of sexual battery if the person, under circumstances not amounting to rape, sodomy, forcible sex abuse, or aggravated sexual abuse, intentionally touches, whether or not through the clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the person's conduct is under circumstances the person knows or should know will likely cause affront or alarm to the person touched. (Utah Code Ann. § 76-9-702.1.)

### 3.11 Stalking:

1) As defined in the *Clery Act*, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition, course of conduct means two or more acts that the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.



2) Under Utah law, a person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to fear for the person's own safety or the safety of a third person, or to suffer other emotional distress. A person is guilty of stalking who intentionally or knowingly violates a stalking injunction issued pursuant to Utah Code Ann. § 77-3a, or a permanent criminal stalking injunction issued pursuant to Utah Code Ann. § 76-5-106.

#### 4.0 POLICY

##### 4.1 Policy Statement

**4.1.1** Utah Valley University is committed to providing a safe and secure environment for all members of the university community and visitors. The University adopts this policy to facilitate compliance with *Clery Act* disclosure, reporting, and crime statistic requirements.

##### 4.2 Scope of This Policy

**4.2.1** This policy applies to all members of the university community and also provides information to university visitors, prospective students, and prospective employees.

**4.2.3** The obligation to meet *Clery Act* reporting requirements applies to all UVU community members who are responsible for campus security and those with a significant responsibility for student and campus activities. The *Clery Act* identifies these responsible persons as CSAs.

**4.2.4** UVU Police, which is fully accredited by the State of Utah, is charged with protecting lives and property on campus. UVU Police officers have the same police powers and responsibilities as officers in other Utah law enforcement agencies.

##### 4.3 Reporting of Crimes and Other Emergencies

**4.3.1** The University encourages all members of the University community who become aware of criminal actions or other emergencies or suspicious or criminal activity to report such actions or activity to UVU Police as soon as possible. Crimes may be reported to UVU Police by calling (801) 863-5555. In the event of a crime in progress or at any time there is a risk of harm to persons or property, call 911 or (801) 863-5555 on campus.

**4.3.2** Incidents reported to UVU Police will be investigated for the purpose of reducing crime, improving safety, making disciplinary referrals, and imposing criminal sanctions as appropriate. Additionally, incidents reported to UVU Police will be included in the statistical report contained in the ASR.



**4.3.3** Criminal actions may also be reported to CSAs, who have a legal obligation to file a report of suspected criminal activity with UVU Police to ensure statistical inclusion of all crimes specified by the *Clery Act* in the University's ASR when those crimes occur in the area defined as "Clery geography," including on or near University Property, including on-campus property, property immediately adjacent to the campus, and off-campus property owned or controlled by the University. Reports made to these persons or offices, and not also made to UVU Police, will be included in the statistical report in the ASR but generally will not be investigated by the police. Training regarding reporting responsibilities will be provided to all persons designated as CSAs.

**4.3.4** Although the University strongly encourages all members of the University community to report crime to law enforcement, it is the victim's choice whether or not to make such a report, and the victim has the right to decline involvement with the police. The University will assist victims with notifying the police if they so desire.

**4.3.5** Individuals who intentionally and knowingly make false accusations of criminal activity or provide false information to UVU Police or university officials in connection with an accusation and/or investigation of criminal activity are subject to discipline under university policy as well as criminal and/or civil penalties under applicable law.

#### **4.4 Clery Act Compliance**

**4.4.1** To promote safety and security at the University and in compliance with the Clery Act, the University does all of the following:

- 1) Submits crime statistics to the United States Department of Education. Each year, the University submits crime statistics for *Clery Act* crimes by type, location, and year to the U.S. Department of Education.
- 2) Maintains a daily crime log of reported alleged criminal incidents that is open to public inspection.
- 3) Issues timely warnings and campus alerts. UVU issues a timely warning to the University community when there is information that a *Clery Act* crime has occurred that represents a serious or ongoing threat to campus safety. Specifically, if a situation arises on campus or in an area surrounding campus that, in the judgment of the Chief of Police or designee, constitutes a serious or continuing threat to students, employees, or the UVU community, the Chief of Police shall initiate a timely warning using the University's emergency communications systems. Anyone with information warranting a timely warning should report the circumstances to UVU Police.
- 4) Issues emergency notifications. The University issues an emergency notification upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to

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the health or safety of students or employees occurring on the campus. The University tests the emergency notification procedure biannually.

5) Publishes and maintains an Annual Security Report (ASR). UVU Police prepares the ASR, which contains safety- and security- related policy statements and statistics of *Clery Act* crimes occurring on Clery geography. To prepare the ASR, the University collects, classifies, and counts *Clery Act* crime reports and statistics. The University maintains contact with local police departments to collect crime statistics for off-campus locations.

**4.4.2** The full text of this report can be found on the UVU Police website at <https://www.uvu.edu/police/docs/clery.pdf>. Each year, notification about the ASR is sent by email or other means to all enrolled students, staff, and faculty. In addition, paper copies of the report may be obtained from UVU Police at 800 W. University Parkway MS 195, Orem, Utah, Gunther Trades Building Room 331, or by calling (801) 863-5555. Prospective students and employees may also obtain copies from the UVU website or UVU Police.

#### **4.5 Requests for Anonymity/Referrals to Other UVU Departments**

**4.5.1** Individuals who witness or are the victim of crime, but who wish to remain anonymous, may report the crime to UVU Police on a confidential basis. To do so, individuals should specifically request that they remain anonymous. The report ensures that the occurrence of the crime will be included in the University's annual report; assists the police in determining if there is a pattern of crime with regard to a particular location, method, or suspect; and enables the police, in appropriate circumstances, to alert the campus community to potential dangers. Filing an anonymous report may limit the ability of UVU Police to provide specific assistance or to investigate or solve a crime.

**4.5.2** If a victim requests anonymity from the Title IX Coordinator or designee, the identity of the victim shall remain confidential except in instances when the victim is a minor or vulnerable adult, or there is imminent danger to the victim or others in the community. In such cases, identification to law enforcement is required for safety and protection. In instances when the University is notified of a request for information, personally identifiable information contained in university records shall remain protected and shall not be accessible to the public. UVU Policy 162 *Sexual Misconduct* and Policy 115 *Minors on Campus and at University-Sponsored Events* provide specific policy and procedure regarding minors.

**4.5.3** Incidents involving student misconduct that are investigated by UVU Police may be referred to the Director of Student Conduct for disciplinary action. Examples of such referrals include consumption of alcohol by individuals under the age of 21. Students are subject to discipline for use, possession, or distribution of alcoholic beverages of any type on university premises except as expressly permitted by law and university regulations. Students are also subject to discipline for use, possession, or distribution of any narcotic or other controlled substance on university premises, at university activities, or on premises over which the

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University has supervisory responsibility pursuant to state statute or local ordinance, except as permitted by law and university policy.

**4.5.4** Incidents involving staff misconduct may be referred to Human Resources for possible disciplinary action. Incidents involving faculty misconduct may be referred to Academic Affairs for possible disciplinary action. Under university policy, the University is a drug-free workplace. It is a violation of UVU Policy 324 *Drug-free Workplace* for employees to engage in the unlawful manufacture, distribution, dispensation, possession, and/or use of a controlled substance or alcohol at university workplace or while engaged in university business off campus. Employees are subject to discipline for violating this policy.

#### **4.6 Registered Sex Offenders**

**4.6.1** In accordance with the *Campus Crimes Prevention Act* (42 US Code § 14071), the *Utah Sex Offender Registration Act* (U.C.A. 77-27-21.5) requires notice to be given to institutions of higher education of persons required by the act to register who are affiliated with the institution. The Utah Department of Corrections Sex Offender Registration Program Office will inform UVU Police of registered sex offenders who are affiliated with UVU. This information will be available at UVU Police, 800 W. University Parkway MS 195, Orem, Utah, Gunther Trades Building Room 331, (801) 863-5555. Individuals seeking additional information about registered sex offenders may go to the Utah Department of Corrections Sex Offender Registry at <http://www.corrections.utah.gov/services/sonar.html>.

#### **4.7 Prevention, Education, and Training**

**4.7.1** The University conducts student and employee climate surveys to develop education and prevention programs that reflect comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking. Training will be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to university community needs, and informed by research. Training will also be assessed for value, effectiveness, and outcome. These programs are designed to consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

**4.7.2** The University shall monitor the effectiveness of its awareness, prevention, and risk reduction programs and services through campus climate surveys and other statistical data.

**4.7.3.** The University's education and prevention programs include awareness programs, bystander interventions, ongoing prevention and awareness campaigns, primary prevention programs, and education on risk reduction.



## 5.0 PROCEDURES

### 5.1 Annual Security Report

**5.1.1** UVU Police is responsible for collecting reported *Clery Act* crimes made to UVU Police, local law enforcement agencies, school officials, CSAs, and all others associated with UVU who are responsible for student and campus activities.

**5.1.2** UVU Police is responsible for completing and submitting the ASR to the U.S. Department of Education, in accordance with *Clery Act* requirements. The report shall include statistics of *Clery Act* crimes for the preceding three years and UVU's policy statements addressing campus security and safety. UVU Police shall compile and disclose:

- 1) Statistics of reported *Clery Act* crimes on its campuses, immediately adjacent public areas, remote classroom facilities, and non-campus facilities that support educational services (*Clery* geography). Information about each crime shall include the date, location, and disposition (if known) of the crime.
- 2) The number of arrests related to *Clery Act* crimes. If an individual is both arrested and referred for disciplinary action, only the arrest will be reported.
- 3) The number of students who are referred for disciplinary action due to *Clery Act* crimes. If an individual is both arrested and referred for disciplinary action, only the arrest will be reported. For weapons, drug, and/or liquor law violations, both the referral and the arrest must be reported in *Clery Act* crime statistics.

**5.1.3** In accordance with the *Clery Act* and this policy, the Title IX Coordinator or designee will provide UVU Police statistics about sexual misconduct for the ASR. This report provides those statistics to the U.S. Department of Education, but does so in a manner that does not include any identifying information about persons involved in an incident.

**5.1.4** UVU Police shall publish the ASR by October 1 of each year. The ASR shall be made available to all current and prospective students and employees by web, mail, and/or email.

**5.1.5.** The University shall keep all records used in compiling the ASR for three years from the latest publication of the report and shall include the following: copies of crime reports; daily crime logs; records for arrests and/or referrals for disciplinary action; timely warning and emergency notification reports; documentation and/or correspondence regarding *Clery Act* compliance; and notices to students/employees regarding the availability of the ASR. All documentation shall be dated.

### 5.2 Timely Warnings and Emergency Notifications

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# UTAH VALLEY UNIVERSITY

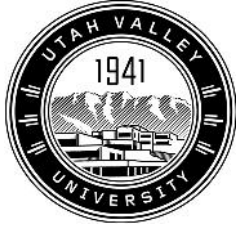
## Policies and Procedures

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**5.2.1** Upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus, the University shall notify the campus community using the procedures found at <https://www.uvu.edu/police/>. The University shall determine the appropriate segment or segments of the campus community to receive a notification, determine the content of the notification, and initiate the notification system. The University shall, without delay and considering the safety of the community, determine the content of the notification and initiate the notification system, unless responsible authorities determine that such notification will compromise efforts to contain, respond to, or otherwise mitigate the emergency.

**5.2.2** The University shall issue an emergency notification upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The University tests the emergency notification procedure bi-annually. University shall biannually test the University's emergency response and evacuation procedures, which can be found at <https://www.uvu.edu/police/> under emergency procedures.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity



# UTAH VALLEY UNIVERSITY

## Policies and Procedures

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<b>POLICY TITLE</b>	<del>Clery Act: Campus Safety and Security (TEMPORARY EMERGENCY)</del>	<b>Policy Number</b>	407
<b>Section</b>	Facilities, Operations, and Information Technology	<b>Approval Date</b>	September 10, 2015
<b>Subsection</b>	Safety, Security, and Vehicles	<b>Effective Date</b>	September 10, 2015
<b>Responsible Office</b>	Office of the Vice President of Finance and Administration		

### 1.0 PURPOSE

~~1.1 In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 (the “Clery Act”), the purpose of this policy is to assist in creating a safe and secure environment for students, faculty, staff, and campus visitors and to provide guidance to all members of the University community regarding Clery Act requirements.~~

### 2.0 REFERENCES

~~2.1 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 (the “Clery Act”) (20 USC § 1092(f))~~

~~2.2 Crime Definitions in Accordance with the Federal Bureau of Investigations Crime Reporting Program (34 CFR § 668)~~

~~2.3 Utah Code Ann. § 76-5-406~~

~~2.4 Utah Code Ann. § 78B-7-402~~

~~2.5 Utah Code Ann. § 77-36-1~~

~~2.6 Utah Code Ann. § 76-9-702.1~~

~~2.7 Utah Code Ann. § 76-5-106~~

~~2.8 UVU Policy 115 Minors on Campus and at University-Sponsored Events~~

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- 2) Any individual responsible for security who is not a member of UVU Police (for example, individuals responsible for monitoring entrances to buildings or specified areas are responsible for security even on a temporary basis); and
- 3) Any university official who has significant responsibility for student and campus activities, including but not limited to administrators, student resident leaders and assistant leaders, student and employee discipline and campus judicial proceedings, athletics administration and coaches and coaching staff, faculty or staff who lead or supervise travel groups, and academic advisors and advisors to recognized student organizations.

**3.4 Clery Act crimes:** Information about any incident that may constitute any of the following crimes must be reported by CSAs to UVU Police, and the University is required to maintain statistics of these crimes for its ASR:

- 1) Murder/non-negligent manslaughter, negligent manslaughter, sexual assault offenses (forcible and non-forcible), domestic violence, dating violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes: Any of the above mentioned offenses, and any incidents of larceny theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by bias based on race, ethnicity, national origin, religion, sex/gender, sexual orientation, gender identity, or disability; and
- 3) Arrests and referrals for disciplinary action for weapons (carrying, possessing, etc.), drug abuse violations, and alcohol law violations.



**3.5 Clery geography:** Any location on which the University is required to report crime statistics for purposes of the *Clery Act*, including:

1) Campus property: Any building or property owned or controlled by the University within the same reasonably contiguous geographic area of the University and used by the University in direct support of, or in a manner related to, the University's educational purposes, including any building or property within the same reasonably contiguous geographic area of the University that is owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor);

2) Non-campus building or property: Any building or property owned or controlled by an officially sponsored student organization recognized by the University and any building or property (other than a branch campus) owned or controlled by the University that is frequently used in direct support of, or in relation to, the University's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the University; and

3) Public property within or immediately adjacent to the campus: The term "public property" means all public property that is within the same reasonably contiguous geographic area of the University, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the University if the facility is used by the University in direct support of, or in a manner related to, the University's educational purposes.

**3.6 Daily crime log:** A daily record maintained by UVU Police that records all reported alleged criminal activity in accordance with the *Clery Act*.

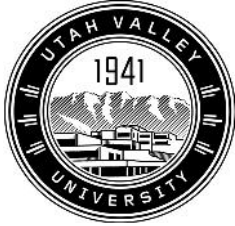
**3.7 Dating violence:**

1) As defined in the *Clery Act*, dating violence means violence committed by a person who is or has been in a relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the reporting party's statement and with consideration of the length of the relationship, type of relationship, and frequency of interaction between the parties. It includes, but is not limited, to sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against his or her dating partner; or any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against his or her dating partner. "Dating partner" means a person who: (a) is an emancipated person as defined by Utah statute; or (b) is 18 years of age or older; and is, or has been, in a dating relationship with the other party. "Dating partner" does not include an intimate

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partner, as defined in federal law (18 U.S.C. § 921). "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship that has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy. "Dating relationship" does not mean casual fraternization in a business, educational, or social context. In determining, based on a totality of the circumstances, whether a dating relationship exists, all relevant factors shall be considered, including: (a) whether the parties developed interpersonal bonding above a mere casual fraternization; (b) the length of the parties' relationship; (c) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship; (d) the ongoing expectations of the parties, individual or jointly, with respect to the relationship; (e) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and (f) whether other reasons exist that support or detract from a finding that a dating relationship exists. It is not necessary that all, or a particular number, of the factors described herein are found to support the existence of a dating relationship. (Utah Code Ann. § 78B-7-402.)

### **3.8 Domestic violence:**

1) As defined in the *Clery Act*, domestic violence means felony or misdemeanor crimes of violence committed (a) by a current or former spouse or intimate partner of the victim; (b) by a person with whom the victim shares a child in common; (c) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (d) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" also means commission or attempt to commit, any of the following offenses by one cohabitant against another: aggravated assault, assault, criminal homicide, harassment, electronic communication harassment, kidnapping, child kidnapping, or aggravated kidnapping, mayhem, sexual offenses, stalking, unlawful detention, violation of protective order, any offense against property, possession of a deadly weapon with intent to assault, discharge of a firearm. (Utah Code Ann. § 77-36-1(4).)

**3.9 Drug abuse violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance is also a drug abuse

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violation. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs are also violations.

### **3.10 Sexual assault:**

1) As defined in the *Clery Act*, sexual assault is an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation, including forcible or non-forcible sex offense or actual or attempted sexual contact with another person without that person's consent. Sexual assault includes but is not limited to involvement in any sexual contact when the victim is unable to consent or intentional and unwelcome touching, however slight, of any body part or object, by any person upon another person, that is without consent and/or by force or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast). Sexual intercourse without consent includes acts commonly referred to as rape, statutory rape, or incest. Intercourse includes vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth-to-genital contact or genital-to-mouth contact) no matter how slight the penetration or contact. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.

2) Under Utah law, a person is guilty of rape if that person has sexual intercourse with the victim without the victim's consent. (Utah Code Ann. § 76-5-402.) A person is guilty of object rape if the actor, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person. (Utah Code Ann. § 76-5-402.2.) A person is guilty of sexual battery if the person, under circumstances not amounting to rape, sodomy, forcible sex abuse, or aggravated sexual abuse, intentionally touches, whether or not through the clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the person's conduct is under circumstances the person knows or should know will likely cause affront or alarm to the person touched. (Utah Code Ann. § 76-9-702.1.)

### **3.11 Stalking:**

1) As defined in the *Clery Act*, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition, course of conduct means two or more acts that the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting, though criminal prosecution of crimes must meet the definition of Utah law.



2) Under Utah law, a person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to fear for the person's own safety or the safety of a third person, or to suffer other emotional distress. A person is guilty of stalking who intentionally or knowingly violates a stalking injunction issued pursuant to Utah Code Ann. § 77-3a, or a permanent criminal stalking injunction issued pursuant to Utah Code Ann. § 76-5-106.

## 4.0 POLICY

### 4.1 Policy Statement

~~4.1.1~~ Utah Valley University is committed to providing a safe and secure environment for all members of the university community and visitors. The University adopts this policy to facilitate compliance with *Clery Act* disclosure, reporting, and crime statistic requirements.

### 4.2 Scope of This Policy

~~4.2.1~~ This policy applies to all members of the university community and also provides information to university visitors, prospective students, and prospective employees.

~~4.2.3~~ The obligation to meet *Clery Act* reporting requirements applies to all UVU community members who are responsible for campus security and those with a significant responsibility for student and campus activities. The *Clery Act* identifies these responsible persons as CSAs.

~~4.2.4~~ UVU Police, which is fully accredited by the State of Utah, is charged with protecting lives and property on campus. UVU Police officers have the same police powers and responsibilities as officers in other Utah law enforcement agencies.

### 4.3 Reporting of Crimes and Other Emergencies

~~4.3.1~~ The University encourages all members of the University community who become aware of criminal actions or other emergencies or suspicious or criminal activity to report such actions or activity to UVU Police as soon as possible. Crimes may be reported to UVU Police by calling (801) 863-5555. In the event of a crime in progress or at any time there is a risk of harm to persons or property, call 911 or (801) 863-5555 on campus.

~~4.3.2~~ Incidents reported to UVU Police will be investigated for the purpose of reducing crime, improving safety, making disciplinary referrals, and imposing criminal sanctions as appropriate. Additionally, incidents reported to UVU Police will be included in the statistical report contained in the ASR.



~~4.3.3 Criminal actions may also be reported to CSAs, who have a legal obligation to file a report of suspected criminal activity with UVU Police to ensure statistical inclusion of all crimes specified by the Clery Act in the University's ASR when those crimes occur in the area defined as "Clery geography," including on or near University Property, including on-campus property, property immediately adjacent to the campus, and off-campus property owned or controlled by the University. Reports made to these persons or offices, and not also made to UVU Police, will be included in the statistical report in the ASR but generally will not be investigated by the police. Training regarding reporting responsibilities will be provided to all persons designated as CSAs.~~

~~4.3.4 Although the University strongly encourages all members of the University community to report crime to law enforcement, it is the victim's choice whether or not to make such a report, and the victim has the right to decline involvement with the police. The University will assist victims with notifying the police if they so desire.~~

~~4.3.5 Individuals who intentionally and knowingly make false accusations of criminal activity or provide false information to UVU Police or university officials in connection with an accusation and/or investigation of criminal activity are subject to discipline under university policy as well as criminal and/or civil penalties under applicable law.~~

#### **4.4 Clery Act Compliance**

~~4.4.1 To promote safety and security at the University and in compliance with the Clery Act, the University does all of the following:~~

- ~~1) Submits crime statistics to the United States Department of Education. Each year, the University submits crime statistics for Clery Act crimes by type, location, and year to the U.S. Department of Education.~~
- ~~2) Maintains a daily crime log of reported alleged criminal incidents that is open to public inspection.~~
- ~~3) Issues timely warnings campus alerts. UVU issues a timely warning to the University community when there is information that a Clery Act crime has occurred that represents a serious or ongoing threat to campus safety. Specifically, if a situation arises on campus or in an area surrounding campus that, in the judgment of the Chief of Police or designee, constitutes a serious or continuing threat to students, employees, or the UVU community, the Chief of Police shall initiate a timely warning using the University's emergency communications systems. Anyone with information warranting a timely warning should report the circumstances to UVU Police.~~
- ~~4) Issues emergency notifications. The University issues an emergency notification upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to~~

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the health or safety of students or employees occurring on the campus. The University tests the emergency notification procedure biannually.

5) Publishes and maintains an Annual Security Report (ASR). UVU Police prepares the ASR, which contains safety and security related policy statements and statistics of *Clery Act* crimes occurring on Clery geography. To prepare the ASR, the University collects, classifies, and counts *Clery Act* crime reports and statistics. The University maintains contact with local police departments to collect crime statistics for off-campus locations.

**4.4.2** The full text of this report can be found on the UVU Police website at <https://www.uvu.edu/police/docs/clery.pdf>. Each year, notification about the ASR is sent by email or other means to all enrolled students, staff, and faculty. In addition, paper copies of the report may be obtained from UVU Police at 800 W. University Parkway MS 195, Orem, Utah, Gunther Trades Building Room 331, or by calling (801) 863-5555. Prospective students and employees may also obtain copies from the UVU website or UVU Police.

#### **4.5 Requests for Anonymity/Referrals to Other UVU Departments**

**4.5.1** Individuals who witness or are the victim of crime, but who wish to remain anonymous, may report the crime to UVU Police on a confidential basis. To do so, individuals should specifically request that they remain anonymous. The report ensures that the occurrence of the crime will be included in the University's annual report; assists the police in determining if there is a pattern of crime with regard to a particular location, method, or suspect; and enables the police, in appropriate circumstances, to alert the campus community to potential dangers. Filing an anonymous report may limit the ability of UVU Police to provide specific assistance or to investigate or solve a crime.

**4.5.2** If a victim requests anonymity from the Title IX Coordinator or designee, the identity of the victim shall remain confidential except in instances when the victim is a minor or vulnerable adult, or there is imminent danger to the victim or others in the community. In such cases, identification to law enforcement is required for safety and protection. In instances when the University is notified of a request for information, personally identifiable information contained in university records shall remain protected and shall not be accessible to the public. UVU Policy 162 *Sexual Misconduct* and Policy 115 *Minors on Campus and at University Sponsored Events* provide specific policy and procedure regarding minors.

**4.5.3** Incidents involving student misconduct that are investigated by UVU Police may be referred to the Director of Student Conduct for disciplinary action. Examples of such referrals include consumption of alcohol by individuals under the age of 21. Students are subject to discipline for use, possession, or distribution of alcoholic beverages of any type on university premises except as expressly permitted by law and university regulations. Students are also subject to discipline for use, possession, or distribution of any narcotic or other controlled substance on university premises, at university activities, or on premises over which the

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~~University has supervisory responsibility pursuant to state statute or local ordinance, except as permitted by law and university policy.~~

~~4.5.4 Incidents involving staff misconduct may be referred to Human Resources for possible disciplinary action. Incidents involving faculty misconduct may be referred to Academic Affairs for possible disciplinary action. Under university policy, the University is a drug-free workplace. It is a violation of UVU Policy 324 *Drug-free Workplace* for employees to engage in the unlawful manufacture, distribution, dispensation, possession, and/or use of a controlled substance or alcohol at university workplace or while engaged in university business off-campus. Employees are subject to discipline for violating this policy.~~

#### **4.6 Registered Sex Offenders**

~~4.6.1 In accordance with the *Campus Crimes Prevention Act* (42 US Code § 14071), the *Utah Sex Offender Registration Act* (U.C.A. 77-27-21.5) requires notice to be given to institutions of higher education of persons required by the act to register who are affiliated with the institution. The Utah Department of Corrections Sex Offender Registration Program Office will inform UVU Police of registered sex offenders who are affiliated with UVU. This information will be available at UVU Police, 800 W. University Parkway MS 195, Orem, Utah, Gunther Trades Building Room 331, (801) 863-5555. Individuals seeking additional information about registered sex offenders may go to the Utah Department of Corrections Sex Offender Registry at <http://www.corrections.utah.gov/services/sonar.html>.~~

#### **4.7 Prevention, Education, and Training**

~~4.7.1 The University conducts student and employee climate surveys to develop education and prevention programs that reflect comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking. Training will be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to university community needs, and informed by research. Training will also be assessed for value, effectiveness, and outcome. These programs are designed to consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.~~

~~4.7.2 The University shall monitor the effectiveness of its awareness, prevention, and risk reduction programs and services through campus climate surveys and other statistical data.~~

~~4.7.3. The University's education and prevention programs include awareness programs, bystander interventions, ongoing prevention and awareness campaigns, primary prevention programs, and education on risk reduction.~~

### **5.0 PROCEDURES**



### **5.1 Annual Security Report**

**5.1.1** UVU Police is responsible for collecting reported *Clery Act* crimes made to UVU Police, local law enforcement agencies, school officials, CSAs, and all others associated with UVU who are responsible for student and campus activities.

**5.1.2** UVU Police is responsible for completing and submitting the ASR to the U.S. Department of Education, in accordance with *Clery Act* requirements. The report shall include statistics of *Clery Act* crimes for the preceding three years and UVU's policy statements addressing campus security and safety. UVU Police shall compile and disclose:

1) Statistics of reported *Clery Act* crimes on its campuses, immediately adjacent public areas, remote classroom facilities, and non-campus facilities that support educational services (*Clery* geography). Information about each crime shall include the date, location, and disposition (if known) of the crime.

2) The number of arrests related to *Clery Act* crimes. If an individual is both arrested and referred for disciplinary action, only the arrest will be reported.

3) The number of students who are referred for disciplinary action due to *Clery Act* crimes. If an individual is both arrested and referred for disciplinary action, only the arrest will be reported. For weapons, drug, and/or liquor law violations, both the referral and the arrest must be reported in *Clery Act* crime statistics.

**5.1.3** In accordance with the *Clery Act* and this policy, the Title IX Coordinator or designee will provide UVU Police statistics about sexual misconduct for the ASR. This report provides those statistics to the U.S. Department of Education, but does so in a manner that does not include any identifying information about persons involved in an incident.

**5.1.4** UVU Police shall publish the ASR by October 1 of each year. The ASR shall be made available to all current and prospective students and employees by web, mail, and/or email.

**5.1.5** The University shall keep all records used in compiling the ASR for three years from the latest publication of the report and shall include the following: copies of crime reports; daily crime logs; records for arrests and/or referrals for disciplinary action; timely warning and emergency notification reports; documentation and/or correspondence regarding *Clery Act* compliance; and notices to students/employees regarding the availability of the ASR. All documentation shall be dated.

### **5.2 Timely Warnings and Emergency Notifications**



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~~5.2.1 Upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus, the University shall notify the campus community using the procedures found at <https://www.uvu.edu/police/>. The University shall determine the appropriate segment or segments of the campus community to receive a notification, determine the content of the notification, and initiate the notification system. The University shall, without delay and considering the safety of the community, determine the content of the notification and initiate the notification system, unless responsible authorities determine that such notification will compromise efforts contain, respond to, or otherwise mitigate the emergency.~~

~~5.2.2 The University shall issue an emergency notification upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The University tests the emergency notification procedure bi-annually. University shall biannually test the University's emergency response and evacuation procedures, which can be found at <https://www.uvu.edu/police/> under emergency procedures.~~

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity



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Proposed Policy Number and Title: 165 Discrimination, Harassment, and Affirmative Action (TEMPORARY EMERGENCY)		
Existing Policy Number and Title: 165 Discrimination, Harassment, and Affirmative Action (TEMPORARY EMERGENCY)		
<b>Approval Process*</b>		
<input type="checkbox"/> Regular	<input checked="" type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input type="checkbox"/> Revision	<input checked="" type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		

<b>Draft Number and Date:</b> <u>Stage 2, Temporary Emergency, Board of Trustees, June 9, 2016 Draft</u>		
<b>President's Council Sponsor:</b> <u>Linda Makin</u> <b>Ext.</b> <u></u>		
<b>Policy Steward:</b> <u>Karen Clemes, Melissa Frost</u> <b>Ext.</b> <u></u>		

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>6/9/2016</u></p> <p><b>University Entities Review</b> Entrance Date: <u>Not applicable</u></p> <p><b>University Community Review</b> Entrance Date: <u>Not Applicable</u> Open Feedback: <u>Not applicable</u> Close Feedback: <u>Not applicable</u></p> <p><b>Board of Trustees Review</b> Entrance Date: <u>06/09/2016</u> Approval Date: <u>MM/DD/YYYY</u></p>	<p style="text-align: center;"><b>POST APPROVAL PROCESS</b></p> <p>Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <hr/> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b></p> <p><b>Name:</b> <u></u></p> <p><b>Date posted and verified:</b> <u>MM/DD/YYYY</u></p>

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<b>POLICY TITLE</b>	Discrimination, Harassment, and Affirmative Action	<b>Policy Number</b>	165
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	
<b>Responsible Office</b>	Human Resources, Academic Affairs, Student Affairs, Office of the President		

### 1.0 PURPOSE

**1.1** Utah Valley University is committed to maintaining a respectful and safe environment for its students, faculty, staff, and visitors. This policy defines and prohibits all forms of unlawful discrimination, harassment, and retaliation. Sexual misconduct is addressed separately and exclusively in UVU Policy 162 *Sexual Misconduct*. This policy establishes expectations for university community members and campus visitors; details how to report a violation of this policy; and outlines investigation, disciplinary, and due process procedures for addressing reported violations of this policy. This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program, service, or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, and guests or visitors to a university campus or any property owned or leased by the University.

### 2.0 REFERENCES

- 2.1** *Americans with Disabilities Act (ADA)* (as amended)
- 2.2** Title VII of the *Civil Rights Act of 1964*
- 2.3** Title IV of the *Higher Education Amendments Act of 1972*
- 2.4** Title VI of the *Higher Education Amendments Act of 1972*
- 2.5** *Rehabilitation Act of 1973*, Section 504
- 2.6** UVU Policy 162 *Sexual Misconduct*
- 2.7** UVU Policy 361 *Leave of Absence*

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**2.8 UVU Policy 541** *Student Rights and Responsibilities Code*

**2.9 UVU Policy 601** *Classroom Instruction and Management*

**3.0 DEFINITIONS**

**3.1 Discrimination:** For purposes of this policy, negative or adverse conduct towards university employees or students in the terms or conditions of employment; university admission or education; access to university programs, services, or activities; or other university benefits or services on the basis of inclusion or perceived inclusion (in the case of disability) in one or more of the protected classes that has the effect of denying or limiting participation in university employment or in a university program or activity.

**3.2 Harassment:** Any unwelcome physical, verbal, or non-verbal conduct or written, graphic, or electronic statements or depictions (whether direct, indirect, or by third persons) toward an employee, student, or other person affiliated with the University based on that person's inclusion in one or more protected classes that unreasonably interferes with that person's work or academic performance, or creates an intimidating, hostile, or abusive work or learning environment, viewed from both a subjective and objective viewpoint based on a totality of the circumstances, including but not limited to the frequency and severity of the conduct, whether the conduct was physically threatening or humiliating, the effect of the conduct on the individual's mental or emotional state, whether the conduct was directed at more than one person, whether the conduct arose in the context of other discriminatory conduct, and whether the speech or conduct deserves the protections of academic freedom or the First Amendment.

**3.3 Protected classes:** Race, color, religion, national origin, sex, sexual orientation, gender identity, age (40 and over), disability, veteran status, pregnancy, childbirth, or pregnancy-related conditions, genetic information, or other bases protected by applicable federal, state, or local law.

**3.4 Retaliation:** Intimidation, threats of reprisal, harassment, or other materially adverse actions, or threats of such materially adverse actions, made by or against persons employed by, attending, or affiliated with the University in any way or participating in any university program or activity, against anyone who in good faith opposes discrimination or harassment; reports or files a complaint of discrimination or harassment; honestly participates or assists in a university-related investigation, hearing, or other proceeding relating to discrimination or harassment; or otherwise asserts rights protected by Title VII or other applicable laws. Any action designed to prevent or discourage someone from reporting a protected class harassment or discrimination concern may also be retaliation.

**3.5 Sexual misconduct:** Sexual misconduct includes but is not limited to acts of, or failed attempts of, dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity; hostile

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environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity (including intimidation and hazing/bullying); sexual harassment; sexual assault (including non-consensual sexual contact or non-consensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking. (See UVU Policy 162 *Sexual Misconduct*.)

## 4.0 POLICY

### 4.1 Scope of Policy

**4.1.1** This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University (sometimes referred to as “third parties”). To the extent that any other university policies address protected class discrimination, harassment, or retaliation that is not sexual misconduct, this policy takes precedence and controls. Policy 162 *Sexual Misconduct* separately and exclusively addresses sexual misconduct, as defined in section 3.20 of Policy 162 *Sexual Misconduct* and section 3.5 of this policy.

**4.1.2** The President of the University shall appoint a Director of Equal Opportunity and Affirmative Action (who also serves as the Title IX Coordinator) to provide training and education about discrimination and harassment to the university community. The Director of Equal Opportunity and Affirmative Action or designee is responsible for overseeing the receipt and investigation of reports and complaints of discrimination, harassment, and retaliation in accordance with this policy and applicable laws.

### 4.2 Policy Statement

**4.2.1** As required by Title VII of the *Civil Rights Act of 1964* (Title VII), Title IV of the *Higher Education Amendments Act of 1972* (Title IV), Title VI of the *Higher Education Amendments Act of 1972* (Title VI), and related applicable laws, the University prohibits all forms of protected class discrimination, harassment, and retaliation. The University shall respond promptly and effectively to reports of protected class discrimination, harassment, and retaliation and shall take appropriate action to stop and prevent the recurrence of such conduct on the complainant and/or the university community. The University may discipline any person who violates this policy, up to and including termination of employment or expulsion from the University.

**4.2.2** The University affirmatively endeavors to provide equal opportunity consistent with applicable law in all recruitment, admissions, and employment-related activities, procedures, and decisions. Administrators, faculty, or staff exercising recruitment, admissions, or employment-related management responsibilities are required to take vigorous and appropriate action to



ensure that all university practices and decisions for which they are responsible are made without prohibited discrimination, harassment, or retaliation.

**4.2.3** All employment-related practices and decisions shall be instituted and administered in a fair and equitable manner, using only legally valid job-related criteria and standards, including but not limited to experience, training, education, skills, and potential for successful job performance.

**4.2.4** The University endeavors to provide reasonable accommodations and to ensure equal access to qualified university job applicants, employees, or students with disabilities, to those with sincerely held religious beliefs, and to those who are pregnant or who have pregnancy-related conditions, who are requesting accommodations, unless doing so would create an undue hardship on the University and/or compromise legitimate course objectives or educational goals. The University also complies with applicable law in providing military leave and other exceptions to qualifying employees and students.

**4.2.5** Nothing in the policy shall be construed in a manner that impinges on the rights or privileges of individuals protected by the US Constitution.

**4.2.6** Nothing in this policy shall be interpreted to alter the status of employees who are otherwise at will.

### **4.3 Prohibited Conduct**

**4.3.1** Violations of this policy include acts of protected class discrimination, harassment, and retaliation as defined in this policy.

**4.3.2** The University shall respond promptly and effectively to reports of protected class discrimination, harassment, and retaliation and shall take appropriate action to stop and prevent the recurrence of such conduct on the complainant and/or the university community.

**4.3.3** The University shall take steps to prevent retaliation and shall take strong responsive action to threats or acts of retaliation.

**4.3.4** Individuals who, in bad faith, deliberately make false or malicious accusations of violation of this policy shall be subject to disciplinary action, up to and including termination of employment or expulsion from the University. A finding of no violation by the investigator(s) does not in itself constitute proof of a false or malicious accusation.

**4.3.5** The University may discipline any person who is found to have violated this policy, up to and including termination of employment or expulsion from the University.



#### **4.4 Investigations and Disciplinary Proceedings**

**4.4.1** The University shall provide prompt, fair, and impartial investigations and disciplinary proceedings. During these proceedings, both the complainant and the respondent shall be provided equitable rights and opportunities, as outlined in these procedures.

**4.4.2** The University is committed to ensuring that its resolution process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome. University officials who are designated to conduct and/or participate in discrimination, harassment, or retaliation investigations or proceedings shall be trained on how to conduct these investigations or proceedings in a manner free from bias or intimidation. Officials shall also be trained to recognize and acknowledge any potential conflict of interest. Any party who believes there is bias or conflict of interest may submit a written request to remove the person from the process to the Director of Equal Opportunity and Affirmative Action or to the Associate Vice President of Human Resources. The written request should include the specific rationale as to why the requestor believes the bias or conflict could materially impact the outcome.

**4.4.3** Employees and students shall promptly participate in good faith in formal or informal internal administrative investigations related to this policy.

### **5.0 PROCEDURES**

#### **5.1 Scope and Applicability of These Procedures**

**5.1.1** All protected class discrimination, harassment, and retaliation complaints, other than sexual misconduct complaints (which are addressed in Policy 162 *Sexual Misconduct*), are subject to the procedures set forth in this policy. Unless the alleged misconduct also violates additional university policies, other university policies and procedures do not apply to protected class discrimination, harassment, and retaliation reports, processes, and proceedings. All misconduct not involving protected class discrimination, harassment, and retaliation shall be addressed through the procedures found in the respective student, faculty, and staff university policies.

**5.1.2** Reports of protected class discrimination, harassment, or retaliation made after the fact are governed by the policy in place at the time of the alleged misconduct. However, procedures applicable are those in place at the time of the resolution.

#### **5.2 Requesting Disability, Religious, and/or Pregnancy Accommodations, or Military Service or Leave**

**5.2.1** Job applicants or employees with qualifying disabilities who are seeking accommodations to help them perform the essential functions of their jobs should contact the Accommodations Coordinator in Human Resources. Supervisors (employees who supervise staff, administrators, or faculty) who receive disability accommodation requests from university employees must

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promptly report such requests to the Accommodations Coordinator in Human Resources. Students shall make requests for disability accommodations related to academics or other university services (except employment) through the Accessibility Services Office.

**5.2.2** Employees who are seeking accommodations due to their sincerely held religious beliefs should contact the Accommodations Coordinator in Human Resources. Supervisors who receive religious accommodation requests from university employees must promptly report such requests to the Accommodations Coordinator in Human Resources, who shall manage the accommodations process with the employee. Students who are seeking accommodations due to their sincerely held religious beliefs should contact their professor(s) and follow the procedures in Policy 601 *Classroom Instruction and Management*. If students or employees believe a religious accommodation request has been wrongfully denied, they may contact the Office for Equal Opportunity for assistance.

**5.2.3** Employees who are seeking accommodations due to pregnancy and/or pregnancy-related conditions should contact the Accommodations Coordinator in Human Resources. Supervisors who receive pregnancy and/or pregnancy-related accommodation requests from university employees must promptly report such requests to the Accommodations Coordinator in Human Resources. Students who are seeking accommodations due to pregnancy and/or pregnancy-related conditions should contact Accessibility Services, which shall gather any necessary medical documentation. If accommodations for disability are not warranted, students shall be referred to the Office for Equal Opportunity for a determination of appropriate accommodations, including options to withdraw if that is the student's preference.

**5.2.4** Employees who are seeking military service or leave requests should contact Benefits in Human Resources. Supervisors who receive military service or leave requests must promptly report such requests to Benefits in Human Resources. Students who are seeking military service or leave requests should contact the UVU Veteran Success Center and/or the Office for Equal Opportunity for assistance.

### **5.3 Affirmative Action Program**

**5.3.1** The Equal Opportunity and Affirmative Action Director in coordination with Human Resources has the responsibility to write, implement, monitor, and update the University's affirmative action program in compliance with law and shall provide an annual program report of these activities to President's Council.

### **5.4 Reporting an Incident of Protected Class Discrimination, Harassment, or Retaliation**

**5.4.1** University community members are responsible for knowing the information and procedures in this policy. University community members who believe they have been subjected to protected class discrimination, harassment, or retaliation, or who witness such conduct against



other university community members, are encouraged to promptly report such issues to the Director of Equal Opportunity and Affirmative Action (who is also the Title IX Coordinator).

**5.4.2** The Director of Equal Opportunity and Affirmative Action, who oversees all protected class discrimination, harassment, and retaliation investigations, may be reached in the Office of Equal Opportunity, 800 West University Parkway, Browning Administration Building, Suite 203, Orem, Utah, 84058, phone (801) 863-7590. Reports may be filed in person, through email, or via the equal opportunity website at <https://www.uvu.edu/equalopportunity/>.

**5.4.3** Individuals may also submit reports, including anonymous reports, through EthicsPoint, the University's 24-hour hotline provider, by calling (877) 228-5401 or by submitting information online at <https://secure.ethicspoint.com/domain/media/en/gui/23421/index.html>.

**5.4.4** Supervisors who receive a complaint of any kind of protected class discrimination, harassment, or retaliation, or who otherwise witness or become aware of such conduct, must promptly report such issues to the Director of Equal Opportunity and Affirmative Action.

## **5.5 Preliminary Review of Reports of Discrimination, Harassment, or Retaliation**

**5.5.1** After receiving a report of protected class discrimination, harassment, or retaliation, the Director of Equal Opportunity and Affirmative Action or designee shall promptly conduct a preliminary review to determine if interim measures are needed and if there is reasonable cause to believe that this policy was violated and/or that an investigation is necessary.

**5.5.2** If the Director of Equal Opportunity and Affirmative Action or designee determines that there is no reasonable cause to believe that this policy was violated and/or that an investigation is not necessary, he or she shall issue a written notice of dismissal to the complainant.

**5.5.3** If the Director of Equal Opportunity and Affirmative Action or designee determines that there is reasonable cause to believe that this policy was violated and/or that an investigation is necessary, he or she shall report the complaint to the following person:

<b>Respondent's Affiliation with the University</b>	<b>Person to Whom the Complaint is Reported</b>
Student	Director of Student Conduct and Conflict Resolution
Faculty member	Associate Vice President of Academic Administration
Staff member (including executive employees)	Director of Employment Services
Contractor/vendor	Vice President of Finance and Administration



## **5.6 Informal Resolution**

**5.6.1** Because each case is different, the Director of Equal Opportunity and Affirmative Action or designee shall tailor each resolution to the specific facts of the case, including determining whether reports of discrimination, harassment, or retaliation are appropriate for informal resolution, mediation, or require an investigation.

**5.6.2** Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary; the University shall not compel either party to engage in informal resolution. Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports. Informal resolution may be inappropriate when one or both of the parties are reluctant to participate in good faith.

**5.6.3** Informal resolution may include an inquiry into the facts, but typically does not include an investigation. Informal resolution is flexible and includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Informal resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to ensure that the resolution has resolved concerns effectively.

**5.6.4** If informal complaint resolution is pursued, respondents will be notified in writing of the concern and that no disciplinary action can be taken against them as part of the early resolution agreement without their agreement. After concluding informal resolution of a complaint, the Director of Equal Opportunity and Affirmative Action or designee shall notify the complainant and respondent in writing of the resolution that was agreed upon.

**5.6.5** Participation in informal resolution does not prohibit either party from terminating informal resolution and/or requesting an investigation at any point during the informal resolution process. Where a report was closed after informal resolution, the matter may later be reopened at the discretion of the Director of Equal Opportunity and Affirmative Action or designee when requested by the complainant and/or if the Director of Equal Opportunity and Affirmative Action or designee determines there is good cause to do so.

## **5.7 Investigation**

**5.7.1** If the Director of Equal Opportunity and Affirmative Action or designee determines an investigation is necessary, the University shall conduct a thorough, reliable, and impartial internal administrative investigation by interviewing witnesses, collecting documentary evidence, and preparing a written report of findings. The purpose of the investigation is to establish whether there is a reasonable basis, based on a preponderance of the evidence, for

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concluding that the alleged violation of this policy has occurred. The University reserves the right to engage an outside investigator to conduct the investigation if it is determined there is a conflict of interest or other compelling reason to do so.

**5.7.2** Throughout the investigation process, disciplinary process, and other proceedings:

- 1) Complainants and respondents can expect prompt and equitable resolution of allegations of prohibited protected class discrimination, harassment, and retaliation.
- 2) Complainants can expect freedom from retaliation for making a good faith report of prohibited protected class discrimination, harassment, and retaliation or for participating under any investigation or proceeding under this policy.
- 3) Respondents have the responsibility to refrain from retaliation directed against any person for making a good faith report of protected class discrimination, harassment, and retaliation or participating under any proceeding under this policy.
- 4) Respondents, complainants, and witnesses have the responsibility to provide truthful information in connection with any report, investigation, or resolution of protected class discrimination, harassment, and retaliation under this policy.
- 5) Complainants and respondents shall have interim measures available and be given the opportunity to request modifications necessary for physical and/or emotional safety.
- 6) Complainants and respondents shall be given timely and equal access to allegations and given an opportunity to respond to information that will be used in any disciplinary proceeding against them.
- 7) Complainants and respondents shall have the opportunity to offer information, present evidence, and identify witnesses during an investigation.
- 8) Complainants and respondents shall be given timely notice of meetings where their presence is necessary.
- 9) Complainants and respondents shall receive simultaneous notification, in writing, of the results of any proceedings.
- 10) Complainants and respondents shall have the opportunity to articulate concerns or issues about proceedings under this policy.
- 11) Complainants and respondents shall have a reasonable time to prepare any response permitted under this policy.

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12) Complainants and respondents shall receive written notice of any necessary extensions of timeframes under this policy.

13) Complainants and respondents may request accommodations necessary under the *Americans with Disabilities Act (ADA)* through the Director of Equal Opportunity and Affirmative Action, who will refer the request to the appropriate ADA coordinator and then implement approved accommodations.

**5.7.3** When proceeding to investigation, the investigator shall ask the complainant to provide written notice of the allegations, including a concise statement describing the incident, when and where the alleged misconduct occurred, and why the complainant believes it violates university policy, and propose a desired resolution. The complainant shall be asked to provide and preserve all corroborating or potentially relevant evidence in any format, list potential witness names, and sign the statement. From this information, the Director of Equal Opportunity and Affirmative Action or designee shall prepare a summary of allegations and relevant information from the complainant's statement for the respondent. The complainant will review the summary and statement, make any necessary corrections, and affirm the summary by signature.

**5.7.4** By requesting investigation on the complaint form and/or signing the summary of allegations, the complainant is giving the investigator consent to discuss the information provided with other persons who may have relevant factual knowledge of the circumstances of the complaint and is authorizing the collection and examination of all records and other documentation relevant to the complaint. In cases where a complainant does not want to pursue an investigation, the Director of Equal Opportunity and Affirmative Action or designee shall inform the complainant that the ability to investigate and/or remediate may be limited.

**5.7.5** If the complainant refuses to sign the summary, the coordinator may (1) note that the allegations have been withdrawn and end the investigation, or (2) note the complainant has refused to sign the summary and proceed to investigation to determine what occurred and to protect the University's interest in maintaining a safe environment free from discrimination, harassment, and retaliation.

**5.7.6** The investigator shall provide the respondent with the summary of the complainant's allegations and a copy of this policy and shall request a written response from the respondent. The respondent shall also be asked to provide and preserve all corroborating or potentially relevant evidence in any format, list potential witness names, and sign any response to the allegations. In preparing the summary of complainant's allegations for the respondent, the Director of Equal Opportunity and Affirmative Action or designee has the discretion to redact names and/or witnesses to protect the identity and ensure the safety of the complainant and/or witnesses. The respondent may prepare and submit a signed written statement to admit or deny the allegations, provide an explanation why any conduct was not a violation of the policy, provide all corroborating evidence, list potential witness names, and state whether the complainant's proposed resolution is appropriate.

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**5.7.7** Upon receipt of the written response from the complainant or after the reply period expires without a response, the investigator shall send a written request to or meet with the complainant to clarify any discrepancies.

**5.7.8** The Director of Equal Opportunity and Affirmative Action shall choose the investigator(s), except in cases where the Director of Equal Opportunity and Affirmative Action or others involved in the investigation have a conflict of interest, in which case the University's Office of General Counsel shall select internal or external impartial investigator(s).

**5.7.9** To provide a prompt, thorough, fair, and impartial investigation and resolution, all investigations of reports of discrimination, harassment, and retaliation shall incorporate the following standards:

- 1) The respondent shall be provided the name of the complainant, a notice of request for investigation, a written statement of the allegations, and a copy of this policy. The respondent shall be afforded a full opportunity to respond to the allegations.
- 2) The investigator(s) conducting the investigation shall be familiar with this policy, have training or experience in conducting investigations, and shall be familiar with applicable university policies and procedures.
- 3) Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation. Participants shall also be reminded during the process not to retaliate against other parties, witnesses, or other participants in the process.
- 4) The investigator shall apply a preponderance of evidence standard to determine whether the conduct occurred as alleged and whether there has been a violation of this policy.
- 5) At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate university administrators. Failure by a party to comply with the terms of interim protections may be considered a separate violation of this policy.
- 6) The investigation shall be completed and the final investigation summary provided to the responsible university administrator as promptly as possible. Investigators shall provide regular status updates to both parties and administrators with a need to know.
- 7) Parties and witnesses are expected to cooperate with and participate in the University's investigation.

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8) The complainant and respondent shall be informed if there were findings made that the policy was or was not violated. In accordance with university policies protecting individuals' privacy and applicable laws, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the respondent. The investigator shall also advise the complainant and respondent of the existence of options outside the University that may be pursued.

**5.7.10** The investigator(s) shall prepare a final investigation summary that contains a written summary of the findings (including a statement of the allegations and issues, the positions of the parties, a summary of evidence, findings, and a determination whether policy has been violated). The final investigation summary may also contain a recommendation for actions to resolve the complaint, including preventive remedies for the complainant, and a referral to disciplinary procedures, as appropriate. Unless there is a conflict, or an outside investigator was engaged, the Director of Equal Opportunity and Affirmative Action shall review all investigation summaries before they are finalized.

**5.7.11** The possible findings of the investigation are the following:

- 1) A decision of "unfounded" indicates that either there is insufficient evidence for the investigators to conclude that the event(s) occurred as alleged, or even if the event(s) occurred, it/they did not constitute protected class discrimination, harassment, or retaliation.
- 2) A decision of "inconclusive" means that the evidence provided by both parties did not reach a preponderance of evidence in favor of either party.
- 3) A decision of "substantiated" means that the allegation occurred as alleged by a preponderance of evidence in favor of the complainant.

**5.7.12** The final investigation summary shall be submitted to the responsible university administrator designated below with authority to implement actions and/or discipline necessary to resolve the complaint. The responsible university administrator should consult with the Director of Equal Opportunity and Affirmative Action, Human Resources, and the Office of General Counsel, as applicable. The final investigation summary may be used as evidence in other related procedures, such as subsequent complaints, disciplinary actions, and/or reviews or appeals.



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Respondent's Affiliation with the University	Responsible University Administrator
Student	Director of Student Conduct (or the Dean of Students if the Director of Student Conduct was the investigator)
Faculty member	The dean of the faculty member's college (in consultation with the Associate Vice President of Academic Administration)
Executive employee or direct report of a vice president	Vice president of the relevant department
Administration or staff member who is not an executive employee and does not report directly to a vice president	Direct report of the vice president, or another senior-level administrator designated by the vice president, of the department in which the respondent is employed
Vice president or direct report of the University President	University President
Contractor, vendor, or visitor	Vice President of Finance and Administration

**5.7.13** Nothing in this procedure shall be interpreted to alter the status of otherwise at-will employees.

### 5.8 Sanctions and Remedies

**5.8.1** Upon receiving the final investigation summary and the Director of Equal Opportunity and Affirmative Action or designee's recommendations, the responsible university administrator shall promptly determine the appropriate sanctions and remedies, including offering remedies to the complainant and/or university community, implementing changes in programs and activities, providing training, and the imposition of any disciplinary sanctions, based on the investigative findings. In consultation with Director of Equal Opportunity and Affirmative Action, Human Resources, and the Office of General Counsel, as needed, the responsible university administrator shall ensure sanctions and remedies are appropriate to end the prohibited conduct and prevent further violation of this policy. In determining the appropriate sanction(s), the responsible university administrator (and the executive university administrator and review panel, should there be a review) shall be guided by a number of considerations, including:

- 1) The severity, persistence, or pervasiveness of the misconduct;
- 2) The impact of the misconduct on the complainant;
- 3) The impact or implications of the misconduct within the university community;

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- 4) Prior misconduct by the respondent, including the respondent's relevant prior disciplinary history;
- 5) Whether the respondent has accepted responsibility for the misconduct;
- 6) The maintenance of a safe, nondiscriminatory, and respectful environment conducive to learning; and
- 7) Any other mitigating, aggravating, or compelling factors.

**5.8.2** Respondents who are found to have violated this policy may be subject to sanctions, depending on the circumstances and the severity of the violation, as follows:

- 1) Possible sanctions against faculty and non-faculty employees for violations of this policy include verbal counseling, written warning, probation, reassignment, transfer, demotion, reduction in pay, suspension, termination of employment, and banning from campus.
- 2) Possible sanctions against students for violations of this policy include any sanctions described in UVU Policy 541 *Student Rights and Responsibilities Code*, such as fines, restitution, interim suspension, suspension, suspension withheld, warning, probation, expulsion, withholding diploma, revocation of degree, discretionary sanction, and organizational sanction.
- 3) Possible sanctions against vendors or visitors to campus who are neither students nor employees of the University include banning the vendors/visitors from all or part(s) of the University and/or ending business relationships with the vendors.

**5.8.3** Unless there are unusual circumstances that would require a delay, the responsible university administrator, with the assistance of the Director of Equal Opportunity and Affirmative Action, shall communicate the outcome of the investigation, including any sanctions and remedies determined by that administrator and the University's procedures for seeking a review/appeal of the outcome, in writing to both the complainant and the respondent simultaneously ("outcome notice") within five business days of receipt of the final investigation summary. However, the responsible university administrator, in consultation with the Director of Equal Opportunity and Affirmative Action or designee, may choose not to disclose the sanctions, and shall not disclose the discipline imposed on a respondent student, except under the following circumstances:

- 1) The discipline directly affects the other party, such as when the respondent student is ordered to stay away from the other party, an employee is transferred to another job site, worksite, class, or is suspended or dismissed from the University; or
- 2) The respondent student gives his or her written permission to disclose the discipline.

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## **5.9 Review of Sanctions and Remedies (Reviews)**

**5.9.1** Student or employee (faculty, administration, or staff) complainants or respondents may seek a review of sanctions and/or remedies by requesting an administrative review or appeal (“review”) within five business days from the date of the delivery of the outcome notice. A written request for review must be submitted to the Director of Equal Opportunity and Affirmative Action and may not exceed 20 pages in length. Untimely requests will not be considered absent extraordinary circumstances. Activities such as graduation, study abroad, internships/externships, business travel, or education, sabbatical, or extracurricular activities generally do not in themselves constitute extraordinary circumstances. A review may be withdrawn by the person requesting the review at any time without prejudice.

**5.9.2** The party requesting a review must identify in the written request at least one or more of the following grounds as the reason for seeking the review:

- 1) New evidence unavailable to the party during the investigation has been discovered that could substantially impact the investigation findings and/or resolution.
- 2) Procedural errors raising substantial doubt that the procedures outlined in this policy were not followed, or that the investigation was not thorough, fair, and/or impartial, which substantially impacted the outcome of the investigation.
- 3) The sanction imposed is substantially disproportionate to the severity of the violation (i.e., too severe or not severe enough).
- 4) The non-disciplinary aspects of the resolution are not reasonably designed to correct the discriminatory effects on the complainant and/or on others who may have been affected or to prevent recurrence or further discriminatory or otherwise inappropriate actions.

**5.9.3** If the responsible university administrator has determined that an employee (faculty, administrator, or staff) should be terminated from employment or that a student should be expelled from the University, that respondent has the right to a review if he or she provides a written request for review within the timeframe stated in 5.9.1. The written request for review must still provide one or more of the grounds for review stated in 5.9.2.

**5.9.4** The final resolution of the responsible university administrator shall be affirmed unless the review panel determines by a majority vote that the party seeking a review has demonstrated by a preponderance of the evidence that one or more of the grounds stated in 5.9.2 has been met and the review panel determines that modification(s) to the decision should be recommended. While a review is pending, interim sanctions shall be imposed by the responsible university administrator, but irreversible sanctions shall not be imposed until the review process is complete. For example, if termination from employment has been recommended, a respondent may be suspended from employment (on a paid or unpaid basis) during the review process, but a

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termination of employment shall not be imposed until the review process is complete and the termination recommendation is upheld.

**5.9.5** Information shared during the review process should remain confidential. The University shall not be responsible for disclosures made by the parties, who will bear individual liability for their disclosures.

**5.9.6** Upon receipt of the written request for review, the Director of Equal Opportunity and Affirmative Action or designee shall provide the party not requesting the review a copy of the request and invite that responding party to submit a written response within five business days. The Director of Equal Opportunity and Affirmative Action or designee shall then convene a three-member review panel (described in 5.9.8), which shall determine whether sufficient cause exists under 5.9.2 and 5.9.3 for review. The Director of Equal Opportunity and Affirmative Action or designee shall then notify both parties in writing of this determination. If a review is warranted, the review panel shall convene promptly after determination date, and no later than fifteen business days later. All meetings of the review panel are closed sessions.

**5.9.7** The complainant, respondent, and responsible university administrator shall be informed of the date of the review at least five business days before the date of the review.

**5.9.8** The University maintains a pool of faculty, staff, and students trained in Title VII, Title IV, and Title VI requirements, Policy 165, and related procedures, who may be assigned to a review panel. The three-member review panel shall be selected from the pool of trained panel members as follows:

<b>Respondent's Affiliation with the University</b>	<b>Composition of Review Panel</b>
Faculty member	Three faculty members
Staff member (including executive employees)	Three staff members
Student	One faculty member, one staff member, one student

**5.9.8.1** Faculty members shall be selected for a term of service on the review panel pool by the Vice President of Academic Affairs or his/her designee and shall be approved by the President of Faculty Senate. Staff members shall be selected for a term of service by the Vice President of Planning, Budget, and Human Resources or his/her designee and shall be approved by the president of the Professional Association of Campus Employees (PACE). Student members shall be selected for a term service by the Dean of Students and shall be members of the Utah Valley University Student Association (UVUSA) and approved by the UVUSA President.

**5.9.9** The Director of Equal Opportunity and Affirmative Action or designee shall select the members of the review panel from the panel pool and designate a review panel chair for each

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panel, based on availability and prior review panel experience. Review panel members must be in good standing with the University and must not have any conflicts of interest with serving on the review panel. The review panel shall consult with an attorney assigned by the Office of General Counsel to advise the review panel regarding legal, procedural, policy, and other questions as needed during the review process.

**5.9.10** The scope of the review and the standard of review shall be limited to those stated in 5.9.2 and 5.9.3 above. Reviews are not trial-type adversarial hearings. The review panel shall have the opportunity to review the final investigation summary and the written request or opposition to review statements submitted by the parties. The parties may also submit written issues or questions to the panel for the panel's consideration.

**5.9.11** In addition, the review meeting is an opportunity for the parties to address the review panel in person about the issues being considered for review, based on the reasons and standards of review outlined in 5.9.2 and 5.9.3, including addressing information in the final investigation summary, any supplemental statements submitted by the parties, and any written impact or mitigation statements. Each party will have the opportunity to be heard, to identify witnesses for the review panel's consideration, and to respond to any questions from the review panel. The parties may not directly question each other, the investigator(s), or any other witnesses, although they may proffer questions for the review panel, which may choose, at its discretion, to pose appropriate and relevant questions to the parties, the investigator(s), and/or any witnesses. The review panel shall determine the appropriateness and relevancy of any additional information and questions submitted and may exclude evidence deemed to be outside the scope of review, irrelevant, or duplicative. A typical review meeting may include brief opening remarks by the complainant and/or respondent, with follow-up questions posed by the review panel; information presented by the investigator(s) or witnesses deemed relevant by the review panel, with follow-up questions by the review panel of the investigator(s) or witnesses; and brief concluding remarks by the complainant and/or respondent. The review panel chair has the discretion to determine the specific review meeting format.

**5.9.12** Both the complainant and the respondent have the right to be present at the review meeting. This request must be submitted to the review panel chair at least two calendar days prior to the review meeting. If, despite being notified of the date, time, and location of the review meeting, either party is not in attendance, the review meeting may proceed and applicable sanctions may be recommended. Neither party is required to participate in the meeting for the meeting to proceed.

**5.9.13** The University reserves the right to modify the review process to protect the safety of all parties involved.

**5.9.14** Within five business days from the date the review meeting concludes, the following shall occur:

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1) In cases where the review panel determines that (a) new evidence arose after the investigation concluded that could substantially impact the investigation findings and/or resolution or (b) the issue(s) brought forward by the contesting party raise substantial doubt that a procedural error occurred that substantially impacted the outcome of the investigation, the review panel may remand the investigation to the original investigator(s) with instructions for further investigation on the raised issue(s). In cases where the review panel determines that the original investigator(s) may have a conflict of interest, the review panel may request review by new investigator(s). The Director of Equal Opportunity and Affirmative Action, in consultation with an assigned attorney from the Office of General Counsel, will determine whether the assignment of new investigators is needed. If the Director of Equal Opportunity and Affirmative Action was one of the original investigators, an assigned attorney from the Office of General Counsel will decide. Once the investigator(s) provide that follow-up to the review panel, the review panel will promptly resume its review to determine if the questions have been adequately addressed. If substantial doubt remains, the panel may either ask the investigator(s) for additional follow-up or send a written notice to the executive university administrator (defined in 5.10.1), with a copy to the Director of Equal Opportunity and Affirmative Action, recommending alternative sanction(s) or remedies. If no substantial doubt remains that new evidence or a procedural error substantially impacted the outcome of the investigation, the panel will consider the issues raised in 5.9.14(2) below.

2) If the review panel decides that the sanction(s) imposed is/are substantially disproportionate to the severity of the violation, or that the non-disciplinary aspects of the resolution are not reasonably designed to correct the discriminatory effects on the complainant, and/or others who may have been affected, or to prevent recurrence or further discriminatory or otherwise inappropriate actions, the review panel chair will draft a letter to the executive university administrator, with a copy to the Director of Equal Opportunity and Affirmative Action, recommending alternate sanction(s) or other remedies and the reasons for said recommendation(s).

3) If the review panel finds no basis under the standards set forth in 5.9.2 that alternate conclusions, sanctions, or remedies should be recommended, the review panel chair will draft a letter to the executive university administrator, with a copy to the Director of Equal Opportunity and Affirmative Action, stating this and the reasons for said recommendation(s).

**5.9.15** Within five business days of receiving the written recommendation from the review panel, the Director of Equal Opportunity and Affirmative Action or designee will send a notice to the complaint and respondent, simultaneously, outlining the review panel's recommendation(s).

## **5.10 Executive Review, Final Sanction, and Final Outcome Letter**

**5.10.1** The executive university administrator responsible for reviewing the recommendations from the review panel and determining the final sanction(s) and other remedies, if any, are as follows:

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<b>Respondent's Affiliation with the University</b>	<b>Executive University Administrator</b>
Student	Dean of Students (or if the Dean of Students was the responsible university administrator who made the initial decision, the Vice President of Student Affairs)
Faculty member	Senior Vice President of Academic Affairs
Administration or staff member who is not an executive employee and does not report directly to a vice president	Vice president of the department in which the respondent is employed (or the vice president's designee)
Executive employee or direct report of a vice president	University President
Vice president or other direct report of the University President	University President

**5.10.2** Upon receipt of written notice from the review panel, the appropriate executive university administrator shall promptly review all of the information that was available to the review panel and then decide whether to affirm the responsible university administrator's original decision, to adopt the recommendation(s) of the review panel, and/or to determine an alternative outcome. In determining the appropriate sanction(s) and other remedies, the executive university administrator should be guided by the considerations in 5.8.1 and will consult with other administrators as needed, including an attorney assigned by the Office of General Counsel, Human Resources, the Director of Equal Opportunity and Affirmative Action, and the Office of Academic Affairs, to ensure that any sanctions and/or remedies are appropriate to end the prohibited conduct and prevent further violation of this policy. Remedies may include offering remedies to the complainant and/or university community, implementing changes in programs and activities, providing training, and the imposition of any disciplinary sanctions, based on the investigative findings.

**5.10.3** Any sanction or combination of sanctions imposed upon a respondent will be documented in the respondent's personnel and/or student file. Nothing in these procedures prevents the executive university administrator from imposing disciplinary action against a respondent when the final investigation summary demonstrates that the respondent engaged in other conduct prohibited by the University, regardless of whether the respondent has been found responsible for violating this policy.

**5.10.4** The executive university administrator will notify the Director of Equal Opportunity and Affirmative Action in writing of his or her decision, which should include the following information: whether the responsible university administrator's sanctions were affirmed or modified and whether the review panel's recommendations were adopted, and the rationale for

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these decisions; any sanction(s) imposed against the respondent and the rationale for this decision; and any other remedial actions to be implemented for the complainant, respondent, and/or community.

**5.10.5** After receiving the executive university administrator's decision, the Director of Equal Opportunity and Affirmative Action shall promptly notify the complainant and respondent, simultaneously, in writing of the final outcome of the investigation and the rationale for the outcome. The final outcome letter shall include the name of the respondent; the violations of policy for which the respondent was found responsible or not responsible, as supported by the rationale set forth in the final investigation summary and/or modified by the executive university administrator; and whether the imposed sanction(s) (if applicable) have changed. The final outcome letter shall also state that the decision is final and not subject to further university review or grievance and include options for seeking other remedies outside of the University, such as with the federal Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD), which investigate complaints of unlawful discrimination and/or harassment in employment, or the US Department of Education Office for Civil Rights (OCR), which investigates complaints of unlawful discrimination, and harassment in employment and educational programs or activities.

**5.10.6** Once the final outcome letter is issued to the parties, no further internal reviews, appeals, or grievances are available to the parties. Nothing in this policy abrogates the rights of the parties to seek other remedies under state or federal law, such as with the federal Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD).

**5.10.7** The final outcome letter shall be used by the Director of Equal Opportunity and Affirmative Action for data collection and compliance purposes only. The review panel, responsible university administrator, and executive university administrator shall provide all documents related to confidential record reviews to the Director of Equal Opportunity and Affirmative Action for confidential storage and shall not keep any written or electronic copies of such documents.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

Printed On:  
June 9, 2016



# UTAH VALLEY UNIVERSITY

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<b>POLICY TITLE</b>	Discrimination, Harassment, and Affirmative Action (Temporary Emergency)	<b>Policy Number</b>	165
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	June 25, 2015
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	June 26, 2015
<b>Responsible Office</b>	Human Resources, Academic Affairs, Student Affairs, Office of the President		

### 1.0 PURPOSE

~~1.1 To provide a workplace, educational environment, programs, and activities free from unlawful discrimination, harassment, and retaliation in accordance with applicable federal, state, and local law. This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University.~~

### 2.0 REFERENCES

~~2.1 UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*~~

~~2.2 UVU Policy 156 *Grievances*~~

### 3.0 DEFINITIONS

**3.1 Discrimination:** Unfair or unequal treatment of university employees or students in the terms or conditions of employment; university admission or education; access to university programs, services, and activities; or other university benefits or services on the basis of inclusion or perceived inclusion in one or more protected classes.

**3.2 Harassment:** Any unwelcome physical, verbal, written, electronic, or non-verbal conduct by persons employed by or affiliated with the University in any way or persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University toward an employee, student, or other person affiliated with the University based on that

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~~person's inclusion in one or more protected classes that is severe or pervasive and that unreasonably interferes with that person's work or academic performance, or creates an intimidating, hostile, or abusive work or learning environment.~~

~~**3.3 Protected classes:** Race, color, religion, national origin, sex, sexual orientation, gender identity, age (40 and over), disability, veteran status, pregnancy, childbirth, or pregnancy-related conditions, genetic information, or other bases protected by applicable federal, state, or local law.~~

~~**3.4 Retaliation:** Intimidation, threats of reprisal, or other materially adverse actions taken against an employee or student of the University, or threats of such materially adverse actions, made by persons employed by or affiliated with the University in any way or by persons participating in any university program or activity against anyone who in good faith opposes discrimination or harassment, reports or files a complaint of discrimination or harassment, or honestly participates or assists in a university-related investigation, hearing, or other proceeding relating to discrimination or harassment.~~

~~**3.5 Sexual harassment:** Unwelcome sexual advances, requests for sexual favors, or other verbal, physical, written, electronic, or non-verbal conduct of a sexual nature by persons employed by or affiliated with the University in any way or persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University toward an employee, student, or other person affiliated with the University when:~~

- ~~1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a university activity;~~
- ~~2) Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, or participation in a university activity; or~~
- ~~3) Such conduct is sufficiently severe or pervasive and it unreasonably interferes with an individual's employment or educational performance or creates an intimidating, hostile, or abusive environment for that individual's employment, education, or participation in a university activity.~~

## 4.0 POLICY

~~**4.1** Utah Valley University prohibits any form of: (a) discrimination based on one or more protected classes, (b) harassment based on one or more protected classes, including sexual harassment, or (c) retaliation. Violations of this policy will be met with appropriate disciplinary action, up to and including termination or expulsion from the University. Disciplinary action, up to and including termination or expulsion from the University, may be taken against an~~

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individual who, in bad faith, deliberately makes false or malicious accusations of discrimination or harassment. However, a no violation finding by the investigator does not in itself constitute proof of a false and/or malicious accusation.

~~4.2 Utah Valley University endeavors to provide reasonable accommodations and to ensure equal access to qualified university job applicants, employees, students, or visitors with disabilities and to those with sincerely held religious beliefs requesting religious accommodations, unless doing so would create an undue hardship on the University.~~

~~4.3 Utah Valley University affirmatively endeavors to provide equal opportunity consistent with applicable law in all recruitment, admissions, and employment-related activities, procedures, and decisions.~~

## 5.0 PROCEDURES

~~5.1 Administrators, faculty, or staff exercising recruitment, admissions, or employment related management responsibilities are required to take vigorous and appropriate action to ensure that all university practices and decisions for which they are responsible are made without prohibited discrimination, harassment, or retaliation.~~

~~5.2 Administrators, faculty, or staff who witness or become aware of sexual harassment or sexual violence shall promptly report such information to the University's Director of Equal Opportunity and Affirmative Action/Title IX Coordinator. Exemptions to the above reporting requirement exist for licensed mental health counselors or members of the clergy who are working within the scope of their license or religious assignment. Employees with significant responsibilities for student and campus activities who are designated by the University as Campus Security Authorities have additional responsibilities related to the reporting of sexual harassment and sexual violence.~~

~~5.3 Employees who supervise other employees, administrators, or faculty who receive a complaint of any kind of protected class discrimination, harassment, or retaliation, or who otherwise witness or become aware of such conduct, shall promptly report such issues to the University's Director of Equal Opportunity and Affirmative Action/Title IX Coordinator.~~

~~5.4 Job applicants or employees with qualifying disabilities who are seeking accommodations to help them perform the essential functions of their jobs should contact the ADA Coordinator in Human Resources. Employees who supervise other employees, administrators, or faculty who receive disability accommodation requests from university employees must promptly report such requests to the ADA Coordinator in Human Resources. Students shall make requests for disability accommodations related to academics or other university services (except employment) through the Accessibility Services Department.~~



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**5.5** ~~Employees who are seeking religious accommodations should contact the Director or Manager of Employee Relations in Human Resources. Employees who supervise other employees, administrators, or faculty who receive religious accommodation requests from university employees must promptly report such requests to the Director or Manager of Employee Relations in Human Resources.~~

**5.6** ~~All employment related practices and decisions shall be instituted and administered in a fair and equitable manner, using only legally valid job related criteria and standards, including but not limited to experience, training, education, skills, and potential for successful job performance.~~

**5.7** ~~The Equal Opportunity and Affirmative Action Director in coordination with Human Resources has the responsibility to write, implement, monitor, and update the University's affirmative action program in compliance with law. The Equal Opportunity and Affirmative Action Director in coordination with Human Resources shall provide an annual program report of these activities to President's Council.~~

**5.8** ~~An Equal Opportunity and Affirmative Action Director/Title IX Coordinator shall be designated by the President of the University to provide training and education about prohibited discrimination and harassment to the university community. The Equal Opportunity and Affirmative Action Director/Title IX Coordinator or designee is responsible for receiving and investigating reports and complaints of discrimination, harassment, and retaliation in accordance with this policy and applicable laws. Employees and students shall promptly participate in good faith in an internal administrative investigation related to this policy.~~

**5.9** ~~Those seeking to appeal university actions that result from findings of violation of this policy shall follow the procedures outlined in UVU Policy 156 *Grievances*.~~

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

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Proposed Policy Number and Title: 156 Grievance (TEMPORARY EMERGENCY)		
Existing Policy Number and Title: 156 Grievance		
<b>Approval Process*</b>		
<input type="checkbox"/> Regular	<input checked="" type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input type="checkbox"/> Revision	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Suspension	
	Anticipated Expiration Date:	
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		

**Draft Number and Date:** June 9, 2016  
**President's Council Sponsor:** Linda Makin **Ext.** \_\_\_\_\_  
**Policy Steward:** Karen Clemes **Ext.** \_\_\_\_\_

### POLICY APPROVAL PROCESS DATES

#### Policy Drafting and Revision

Entrance Date: 06/09/2016

#### University Entities Review

Entrance Date: Not applicable

#### University Community Review

Entrance Date: Not applicable

Open Feedback: Not applicable

Close Feedback: Not applicable

#### Board of Trustees Review

Entrance Date: 06/09/2016

Approval Date: \_\_\_\_\_

#### POST APPROVAL PROCESS

Verify:

- ☐ Policy Number
- ☐ Section
- ☐ Title
- ☐ BOT approval
- ☐ Approval date
- ☐ Effective date
- ☐ Proper format of Policy Manual posting
- ☐ TOPS Pipeline and Archives update

**Policy Office personnel who verified and posted this policy to the University Policy Manual**

**Name:** \_\_\_\_\_

**Date posted and verified:** \_\_\_\_\_

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June 9, 2016



# UTAH VALLEY UNIVERSITY

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<b>POLICY TITLE</b>	Grievance	<b>Policy Number</b>	156
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	June 18, 1992
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	June 18, 1992
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

### 1.0 PURPOSE

### 2.0 REFERENCES

### 3.0 DEFINITIONS

### 4.0 POLICY

~~4.1 The President or his or her designee will provide for expeditious and reasonable resolution of employee grievances, including those related to equal opportunity, civil rights, or other constitutional or statutory rights. At times, employees and students may perceive that their individual rights have been violated with respect to policies or that they have been treated unfairly or in a prejudicial manner. It is the intent of the University to provide such persons with the opportunity to resolve their concerns both quickly and fairly and with a minimum of disruption to the operation of the University. Wherever possible, it is the intent of the University that such concerns be resolved on an informal basis and solely between the parties directly concerned. Where such resolution is not possible, the University makes available the following procedure.~~

~~4.1.1 General Rule:~~ University employees and students should resolve their grievances (including those related to equal opportunity, civil rights, or other constitutional or statutory rights) on a reasonable, informal basis, solely between the parties directly concerned.

~~4.1.2 Exception:~~ Where resolution under the general rule is not possible the parties are authorized to pursue their grievance according to the following procedure.

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## 5.0 PROCEDURES

### 5.1 Step 1

~~5.1.1 Within 20 working days of an alleged incident or action, the aggrieved person will either:~~

- ~~1) Inform the appropriate supervisor verbally or in writing of his or her complaint;~~
- ~~2) Inform the Equity Officer of the incident and request assistance in resolving the complaint. The employee is encouraged but not required to file the complaint with his or her supervisor but may elect to file with the Equity Officer.~~

### 5.2 Step 2

~~5.2.1 The supervisor has 10 working days to evaluate the complaint and provide redress or reject the complaint either verbally or in writing, using the same manner as when the complaint was issued in (see section 5.1.1). If the supervisor fails to respond to the complaint within the time limit, or if the response is in the negative, the grievant may apply to the next step (Step 3) in the process.~~

~~5.2.2 The Equity Officer has 10 working days to investigate, discuss, negotiate, counsel, or recommend, using any avenues open to resolve the grievance. The Equity Officer will maintain a posture of neutrality throughout the entire procedure.~~

### 5.3 Step 3

~~5.3.1 Within 10 working days of receiving a rejection of his or her complaint or a non-reply from the supervisor, the grievant may make a formal complaint in writing to the administrator of the responsible supervisor. Such a complaint must detail the incident(s) or action(s) at issue, the steps taken to date by the grievant to bring the matter to a satisfactory resolution, and the redress now sought.~~

~~5.3.2 After the initial investigation (see section 5.2.2), the Equity Officer has two options:~~

- ~~1) Resolve the grievance informally, or~~
- ~~2) Advise the grievant to begin the process again, formally, by notifying his or her supervisor in writing (see section 5.1.1).~~

### 5.4 Step 4



~~5.4.1 Upon receipt of the formal complaint, the administrator has 10 working days to respond in writing to the grievant, either providing the satisfaction sought or rejecting the complaint. If the administrator fails to respond to the complaint within the time limit, the failure to respond will be taken as a rejection, thereby allowing the grievant to advance to the next step.~~

## **5.5 Step 5**

~~5.5.1 In the event the complaint is rejected by the administrator, the grievant may file the written grievance with the appropriate administrator of the department involved (President or appropriate vice president) within 10 working days of receipt of the rejection. Upon receipt of the grievance, the administrator has 10 working days to respond in writing to the grievance, either by providing the redress sought, providing an alternative solution acceptable to the grievant, or rejecting the complaint. If the administrator fails to respond to the grievance within the time limit, this failure will be taken as a rejection, thereby allowing the grievant to advance to the next step.~~

## **5.6 Step 6**

~~5.6.1 In the event a grievance is rejected by the administrator, the grievant has 15 working days to file a request with the University's Equity Officer for arbitration by an AA/EEO Hearing Committee. Upon receipt of such a request, the Equity Officer has 15 working days to form a hearing committee according to procedures set forth by the AA/EEO Committee guidelines and call a hearing. The grievant and the appropriate university administrator will be informed of the time and place of the hearing. The grievant will be advised of his or her right to have an advisor of his/her own choosing and expense who may act as counsel.~~

~~5.6.2 At the AA/EEO Hearing, the committee will attempt to arbitrate the aggrieved issue(s). The hearing shall include an examination of the facts surrounding the issue(s), including testimony by witnesses for either side and other documentary evidence. Witnesses may be examined and cross examined. The proceedings will be recorded on tape to become a confidential record of the hearing kept in the possession of the Equity Officer for future reference.~~

~~5.6.3 Should arbitration of the issue(s) fail, i.e. either or both parties are unwilling to resolve or compromise the issue(s), the AA/EEO Hearing Committee will meet in closed session and reach a majority decision on the issue(s) presented. Within 10 working days of the date of the hearing, the committee's decision will be forwarded in writing to the grievant, the administrator, and the President (for his or her information). The committee chairperson will also inform the grievant and the administrator of university, state, and federal agency appeal avenues available. The decision of the Hearing Committee will be binding unless appealed to the President by one of the parties.~~

~~5.6.4 Remedies may be invoked by the AA/EEO Hearing Committee if such remedies are specifically requested by the grievant in his or her grievance and if the remedies do not exceed~~

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~~authorized budgets. Claims made in excess of authorized budgets cannot be invoked without approval of the President.~~

#### **5.7 Step 7**

##### **5.7.1 Presidential Review**

~~5.7.1.1 If the grievant or the administrator wishes to appeal the decision of the AA/EEO Hearing Committee, within 10 working days of receipt of the decision he or she may request that the President review the proceedings. The President shall have 15 working days to arrive at a final and binding decision and so inform the grievant, the administrator, and the Equity Officer.~~

##### **5.7.2 Ineligible Grievances**

~~5.7.2.1 This exception to the general rule is not available (except for claims of violation of constitutional or statutory rights, particularly discrimination or equal opportunity) in the case of termination of (1) tenured faculty (see UVU Policy 635 *Faculty Academic Freedom, Professional Rights, and Responsibilities*), (2) probationary employees, (3) hourly employees, or for non-renewal of contract at the end of a contract term.~~

##### **5.7.3 Non-reprisal**

~~5.7.3.1 No employee of the University shall in any way retaliate against any student or other employee who initiates a complaint or grievance under this procedure.~~

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

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# UTAH VALLEY UNIVERSITY

## Policies and Procedures

Page 1 of 3

Proposed Policy Number and Title: 403 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards* (LIMITED SCOPE)

Existing Policy Number and Title: 403 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles and Motorcycles* (TEMPORARY EMERGENCY)

### Approval Process\*

<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision LIMITED SCOPE	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	

\*See UVU Policy #101 *Policy Governing Policies* for process details.

**Draft Number and Date:** June 9, 2016, Stage 4 Draft

**President's Council Sponsor:** Val Peterson **Ext.** \_\_\_\_\_

**Policy Steward:** Frank Young **Ext.** \_\_\_\_\_

### POLICY APPROVAL PROCESS DATES

#### Policy Drafting and Revision

Entrance Date: 02/11/2016

#### University Entities Review

Entrance Date: 02/11/2016

#### University Community Review

Entrance Date: 05/12/2016

Open Feedback: 05/12/2016

Close Feedback: 05/25/2016

#### Board of Trustees Review

Entrance Date: 06/09/2016

Approval Date: \_\_\_\_\_

#### POST APPROVAL PROCESS

Verify:

- ☐ Policy Number
- ☐ Section
- ☐ Title
- ☐ BOT approval
- ☐ Approval date
- ☐ Effective date
- ☐ Proper format of Policy Manual posting
- ☐ TOPS Pipeline and Archives update

**Policy Office personnel who verified and posted this policy to the University Policy Manual**

**Name:** \_\_\_\_\_

**Date posted and verified:** \_\_\_\_\_

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# UTAH VALLEY UNIVERSITY

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<b>POLICY TITLE</b>	Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, <a href="#">and Hoverboards</a>	<b>Policy Number</b>	403
<b>Section</b>	Facilities, Operations, and Information Technology	<b>Approval Date</b>	
<b>Subsection</b>	Safety, Security, and Vehicles	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Associate Vice President of Facilities/Planning		

### 1.0 PURPOSE

**1.1** This policy ensures Utah Valley University's compliance to state and federal laws and establishes regulations regarding the operation of skateboards, roller blades, roller skates, bicycles, motorcycles, Segways, hoverboards, and similar [transportation](#) devices on campus and in university-owned facilities.

### 2.0 REFERENCES

### 3.0 DEFINITIONS

**3.1 Concourse:** Internal, enclosed hallways.

**3.2 Scooters:** Two-wheeled device that is stood on and manually operated.

**3.3 Segways/[hoverboards](#):** [Brand names used in this policy to refer to all self-balancing transportation devices](#)~~scooters that one stands while operating on to operate.~~

**3.5 Skateboards:** Any board with attached wheels.

### 4.0 POLICY

**4.1** Students, employees, and visitors of Utah Valley University who operate skateboards, roller blades, roller skates, bicycles, Segways, scooters, [hoverboards](#), and similar transportation devices on university property shall comply with state law and shall exercise due care and reasonable caution to prevent injury to self, others, and property and shall yield the right of way to pedestrians at all times and shall not exceed a reasonable speed except as part of a university-approved competition or function.

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4.2 Use of motorized devices or scooters, Segways, etc., for medical or ADA purposes must be approved through Accessibility Services [for students or through the Accommodations ADA Coordinator in Human Resources for employees.](#)

## 5.0 PROCEDURES

5.1 This policy applies to students, employees, and visitors of Utah Valley University. Notices or citations shall be issued by University Policy or Parking Services Enforcement personnel to students, employees, and visitors found to be in violation of this policy. These notices and citations shall be resolved by Parking Services or at a court specified on the citation if applicable.

5.2 Skateboards, roller blades, roller skates, [hoverboards](#), scooters, ~~and~~ bicycles, [and similar transportation devices may shall](#) be used only upon roadways, sidewalks, and paths [and in accordance with unless directed otherwise by](#) regulations ~~and/or~~ traffic signs.

5.3 Skateboards, roller blades, roller skates, [hoverboards](#), bicycles, Segways, scooters, and similar transportation devices shall not be used upon any stairways, structures, landscaped areas, concourses, and within any buildings with the exception of university-owned motorized devices as permitted by the Grounds Department for grounds maintenance or with the annual approval of the University Chief of Police.

5.4 The use of Segways on campus property must be approved by the Chief of Police. Segways and similar devices shall not be operated on sidewalks or paths with the exception that approved Segways, university-owned, all-terrain vehicles, or golf carts may be operated on sidewalks and paths in the performance of university-sanctioned duties with the approval of the Chief of Police.

5.5 Bicycles, motorcycles, and similar devices shall not be parked on or at disabled ramps and entrances, hallways, stairwells, fire hydrants, and classrooms. Bicycles, motorcycles, and similar devices shall not be parked at or near any building entrance or exit in such manner as to impede the free and clear use of such areas.

5.6 All-terrain vehicles, golf carts, or similar vehicles may not be operated on campus landscaped areas without the written annual approval of the Director of Grounds. These vehicles must be parked in approved areas as designated by the Associate Vice President of Facilities.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity



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Proposed Policy Number and Title: 503 Add/Drop/Withdrawals		
Existing Policy Number and Title: 503 Add/Drop/Withdrawals (TEMPORARY EMERGENCY)		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	
*See UVU Policy #101 <i>Policy Governing Policies</i> for process details.		

**Draft Number and Date:** Stage 4, Regular, Limited Scope, May 10, 2016  
**President's Council Sponsor:** Michele Taylor **Ext.** \_\_\_\_\_  
**Policy Steward:** \_\_\_\_\_ **Ext.** \_\_\_\_\_

**POLICY APPROVAL PROCESS DATES**

**Policy Drafting and Revision**

Entrance Date: 02/11/2016

**University Entities Review**

Entrance Date: 02/11/2016

**University Community Review**

Entrance Date: 03/31/2016

Open Feedback: 04/29/2016

Close Feedback: 04/29/2016

**Board of Trustees Review**

Entrance Date: 05/12/2016

Approval Date: MM/DD/YYYY

**POST APPROVAL PROCESS**

Verify:

- ☐ Policy Number
- ☐ Section
- ☐ Title
- ☐ BOT approval
- ☐ Approval date
- ☐ Effective date
- ☐ Proper format of Policy Manual posting
- ☐ TOPS Pipeline and Archives update

**Policy Office personnel who verified and posted this policy to the University Policy Manual**

**Name:** \_\_\_\_\_

**Date posted and verified:** MM/DD/YYYY

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<b>POLICY TITLE</b>	Add/Drop/Withdrawals	<b>Policy Number</b>	503
<b>Section</b>	Student Affairs	<b>Approval Date</b>	
<b>Subsection</b>	Admissions, Enrollment, Tuition, and Commencement	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Vice President of Student Affairs		

### 1.0 PURPOSE

**1.1** In order to fulfill the mission of the University to provide quality educational experiences, this policy establishes guidelines for students and university personnel regarding class registration and withdrawals.

### 2.0 REFERENCES

**2.1** UVU Policy 505 *Payment and Non-Payment of Tuition and Fees*

**2.2** UVU Policy 507 *Tuition Refunds*

**2.2** UVU Policy 541 *Student Rights and Responsibilities Code*

**2.3** UVU Policy 601 *Classroom Management*

**2.4** Procedures for active duty and death of a student as found in the course catalog.

### 3.0 DEFINITIONS

**3.1 Adding a class:** Registering for a class before or on the last day to add deadline.

**3.2 Attendance:** A meeting with the instructor and other students at the scheduled time and place for the class.

**3.3 Audit:** Registering and paying tuition for class(es) as a class participant without receiving academic credit.

**3.4 Class:** Specific section of a university course taken by a student for credit or audited during a term whether day, evening, weekend, off campus, or through distance education.

**3.5 Continuing student:** A student who has completed a minimum of one semester and attends for consecutive terms.

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**3.6 Deadline:** A published date in the Student Timetable by which registration and changes in registration can be started or must be completed. The following specific deadlines are referenced in this document:

- 1) Last day to register without an add request
- 2) Tuition/fee payment deadline
- 3) Last day to add/audit class(es) deadline
- 4) Last day to drop class(es)
- 5) Last day to withdraw from class(es)

**3.7 Documentation:** Official/legal forms or a written statement signed by a qualified individual verifying the extenuating circumstances of the petitioning student.

**3.8 Dropping a class:** Canceling registration for a class before drop deadline. No record of the class registration shall appear on a student's transcript.

**3.9 Extenuating circumstances:** (1) An incapacitating health condition, illness, or injury which prevents a student from attending classes (usually more than five consecutive class days); (2) a death in the immediate family; (3) change in work schedule as required by employer; or (4) other emergencies beyond the control of the student.

**3.10 Holds:** Restrictions on a student's registration that must be cleared by contacting the appropriate administrative office.

**3.11 Proof of attendance:** A written statement or signature, or the appropriate form, signed by the class instructor or other designated department official, verifying a student's attendance for a class.

**3.12 Qualified individual:** An employer, physician, licensed medical practitioner, licensed health care provider, licensed mental health care provider, or person qualified and possessing personal knowledge of extenuating circumstances of the student.

**3.13 Student transcript:** A document created from the academic record that is used to review the academic performance of the student.

**3.14 Student Timetable:** Dates and deadlines for registration and changes in registration published on the University's web pages.

**3.15 Withdrawals:** Canceling registration for a class or all classes after the last day to drop-deadline. Types of withdrawals include administrative withdrawals, official withdrawals, and unofficial withdrawals. Withdrawals may or may not appear on transcripts.

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**3.15.1 Administrative withdrawal:** Cancellation of a student's registration for a class or classes by the university for lack of attendance during the first three class periods of a term, lack of satisfying prerequisites, and other official administrative reasons.

**3.15.2 Official withdrawal:** A student reduces class load by canceling registration from a class, multiple classes, or all classes. A grade of "W" shall appear on a student's transcript.

**3.15.3 Unofficial withdrawal:** The University faculty member assigns this grade an "unofficial withdrawal" (UW) grade when a student ceases to attend a class for which they are registered but does not follow procedures for officially withdrawing. ~~may result in a "UW" or "E" grade on a student's transcript.~~

**3.16 Withdrawal Forms:** Official forms used to appropriately complete registration changes. Types of withdrawal forms are *Official Withdrawal Form* and *Withdrawal Exception Form*.

**3.16.1 Official Withdrawal Form:** Used to drop or withdraw from all classes according to the deadlines noted in the Student Timetable.

**3.16.2 Withdrawal Exception Form:** Used to withdraw from individual classes or all classes after the last day to withdraw deadline noted in the Student Timetable.

#### 4.0 POLICY

**4.1** Admitted students without holds on their student record may register for classes according to the dates noted in the Student Timetable.

**4.2** Students may add or drop classes without penalty before the add/drop deadlines published in the Student Timetable.

**4.3** Students may withdraw from a class after the drop deadline and up to the last day to withdraw deadline published in the Student Timetable; students who do so shall receive a "W" grade on their transcript. ~~Students may not withdraw from class after the last day to withdraw deadline except U~~nder extenuating circumstances as defined in section 3.9, ~~S~~Students who withdraw after the drop deadlines shall receive a "W" grade on their transcript.



## 5.0 PROCEDURES

### 5.1. Initial Registration for Semesters/Terms

**5.1.1.** Once admissions processing, orientation, assessment, and advisement are completed, new students and returning students without holds may register for classes according to the dates on the Student Timetable.

**5.1.2** Continuing students without holds may register according to dates on the Student Timetable.

**5.1.3** To audit a class, students register for the class, pay tuition, and submit an *Audit Request Form* by the audit deadline noted in the Student Timetable. Audited classes may not be changed to credit status during the semester/term.

### 5.2 Changing Class Schedules before the Add/Drop Deadline

#### 5.2.1 Adding Classes

**5.2.1.1** When adding classes after the add/drop deadline, students must adhere to the deadline dates in the Student Timetable, submit an *Add Request Form*, and pay appropriate add fees.

**5.2.1.2** Changing sections or increasing credit on a variable credit class is a change in registration and is processed using an *Add Request Form*.

**5.2.1.3** An add fee may be waived for changes requested by the department chair of the class.

#### 5.2.2 Dropping Classes

**5.2.2.1** Students may reduce their course load without a fee beginning and up to the drop deadline.

**5.2.2.2** To drop ALL classes beginning the first day of the semester/term, students must use a *Withdrawal Request Form*.

**5.2.2.3** Classes dropped prior to the drop deadline shall not appear on transcripts.

### 5.3 Class Withdrawals Prior to the Last Day to Withdraw Deadline

**5.3.1** After the drop deadline, students may withdraw from a class, multiple classes, or all classes up to the last day to withdraw deadline.

**5.3.2** To withdraw from ALL classes beginning the first day of the semester/term, students must submit a *Withdrawal Request Form*.



**5.3.3** When students withdraw from classes before the withdraw deadline, a “W” grade shall appear on their transcript.

#### **5.4. Exceptions for Class Withdrawals after the Last Day to Withdraw Deadline**

**5.4.1** Withdrawing from a class or multiple classes, while remaining registered for at least one class, must be approved by the department chair of the course(s).

**5.4.2** Withdrawing from ALL classes must be approved by the department chair of the student’s major course of study.

**5.4.3** Students must submit a *Withdrawal Exception Form* and provide supporting documentation from a qualified individual as defined in section 3.12

**5.4.4** The withdrawal process must be completed prior to the last day of the semester/term (last day of finals).

#### **5.5 Administrative Drops and Withdrawals**

**5.5.1** Upon notification from the department chair to the Registrar’s Office, students may be dropped or withdrawn from classes administratively. Administrative drops and withdrawals may occur when there is a lack of attendance during the first three class periods of a term, lack of satisfying prerequisites, and other official administrative reasons.

#### **5.6 Unofficial Withdrawal**

**5.6.1** Students who stop attending a class without officially withdrawing may receive a “UW” or other grade at the instructor’s discretion.

#### **5.7 Appeals to Add/Drop/Withdraw Policy**

**5.7.1** Contact the Registrar’s Office for the appeal procedure (see UVU Policy 541 *Student Rights and Responsibilities Code*).

**5.7.2** Unusual exceptions to this policy and students seeking a tuition refund after the established deadline shall be handled on an individual basis by the Registrar’s Office. (See UVU Policy 507 *Tuition Refunds*.)

**5.7.3** Students who are called to active duty in the armed forces should contact the Registrar’s Office; such cases are addressed on an individual basis.

**5.7.4** Family of students who die during the semester shall contact the Registrar’s Office; such cases are addressed on an individual basis.

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# UTAH VALLEY UNIVERSITY

## Policies and Procedures

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POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

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